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NEW DELHI, JULY 19—JULY 25, 2009, SATURDAY/ASADHA 28—SRAVANA 3, 1931

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय मंत्रालय
(विधि कार्य विभाग)

नई दिल्ली, 8 जुलाई, 2009

का.आ. 1971.—राष्ट्रपति, श्री राजेन्द्र बी. रघुवंशी, वरिष्ठ अधिवक्ता का दिनांक 5 जुलाई, 2009 (अपरान्ह) से बंबई उच्च न्यायालय, मुंबई में भारत के अपर महासालिसिटर के पद से त्यागपत्र स्वीकार करते हैं।

[फा. सं. 18(7)/2007-न्यायिक]

एम. ए. खॉं यूसुफी, संयुक्त सचिव एवं विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 8th July, 2009

S.O. 1971.—The President is pleased to accept the resignation of Shri Rajendra B. Raghuvanshi, Senior Advocate as Additional Solicitor General of India in the High Court of Bombay at Mumbai w.e.f. 5-7-2009 (AN).

[F. No. 18(7)/2007-Judl.]

M. A. KHAN YUSUFI, Jt. Secy. and Legal Advisor

2570 GI/2009

कार्यालय, मुख्य आयकर आयुक्त

नासिक, 26 जून, 2009

आयकर नियमावली 1961 की धारा 10(23ग) (vi) के तहत अधिसूचना

का.आ. 1972.—आयकर नियमावली, 1961 के नियम 2ग के साथ प्रवृत्त आयकर निष्पत्ति, 1961 की धारा 10 के खंड (23ग) के उप-खण्ड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, मुख्य आयकर आयुक्त, नासिक एतद्वारा संत जोसेफ सोसायटी, सुयोग कॉलोनी, जिला पेट, जलगांव-425 002 को निम्नलिखित शर्तों के अधीन वित्तीय वर्ष 2009-10 तक आयकर संबंधी उक्त धारा के लिए अनुमोदन प्रदान करता हूँ :-

1. निर्धारित, अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई।

2. निर्धारित उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) के विनिर्दिष्ट किसी एक अथवा एक से अधिक ढग अथवा तरीकों से भिन्न तरीकों से अपनी निधि (जैवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करेगा।

(4307)

3. यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलक्षण हो जब तक कि ऐसा कारोबार बोर्ड के उपबन्धनों की प्रक्रिया के लिए प्रमाणित नहीं हो तथा ऐसे कारोबार के संबंध में आय के संबंध में पुष्टि नहीं की जाती हो।

4. निर्धारित आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी धारा (23ग) के तहत परंतुक के अनुसार लेखा परीक्षा रिपोर्ट के साथ निम्नलिखित रूप से आयकर प्रक्रिया की समीक्षा दाखिल करेगा।

5. विघटन की स्थिति में अवशिष्ट (बची हुई) अस्तित्व किसी ऐसे संस्थान को दी जाएगी जिसके उद्देश्य समान हो, और इन अस्तित्वों का कोई भी भाग संस्था के सदस्यों को नहीं दिया जाएगा।

6. यह अनुमोदन, अधिनियम की धारा 143(3) के प्रावधानों के तहत पर आधारित है।

7. अधिनियम की धारा 10 (23ग) के 13वें परंतुक के प्रावधानों के अनुसार भविष्य में अनुमोदन रद्द किया जा सकेगा।

8. यह अनुमोदन आयकर अधिनियम, 1961 की धारा 10(23ग) (Via) के लिए ही दिया जा रहा है, अन्य किसी उद्देश्य से नहीं।

9. यदि बाद में यह पाया जाए कि यह अनुमोदन तब के दुरुपयोग से अथवा धोखा-धड़ी करके प्राप्त किया है, तो यह अनुमोदन शून्यकृत (प्रभावहीन) जाएगा।

10. कोई आय जो किसी व्यवसाय, वाणिज्य, उद्योग की गतिविधियों से अथवा व्यवसाय, वाणिज्य, उद्योग के संबंध में दी गई सेवाओं के एज में प्राप्त हो, जो कि इन गतिविधियों से प्राप्त आय के उपयोग या निवेश का संबंध की प्रकृति कुछ भी हो उस पर यह अनुमोदन लागू नहीं होगा।

11. आयकर अधिनियम की धारा 115 बीबीसी के साथ धारा 10(23सी) के पंद्रहवें परंतुक को देखते हुए यह प्रावधान, मुक्त दानों के संबंध में लागू नहीं होगा।

[सं. ना.मु.आ.आ./10(23ग)(VI)2009-10/1117]

वी. के. श्रीधर, मुख्य आयकर अनुमान

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX

Nashik, the 26th June, 2009

Notification under Section 10(23C)(vi) of the Income Tax Act

S.O. 1972. In exercise of the powers conferred on me by the sub-clause (vi) of clause (23C) of the Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income Tax Rule, 1962 I, Chief Commissioner of Income Tax, Nashik hereby accord approval "St. Josephs Society, Suyog Colony, Jila Peth, Jalgaon 425002 for the purpose of the said section from A.Y. 2009-10 onwards, subject to the conditions mentioned hereunder :

1. The assessee will apply its income, or accumulate for application wholly and exclusively to the objects for which it is established.

2. The assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc. otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11).

3. This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

4. The assessee will regularly file its return of income alongwith audit report as per tenth proviso to section 10(23C) before the income-tax authority in accordance with the provisions of Income-Tax 1961.

5. In the event of dissolution, its surplus assets will be given to an organization with similar objectives and no part of the same will go to any of the members of the institution.

6. The approval granted shall be subject to the provision of proviso to section 143(3) of the Act.

7. The approval may be withdrawn in future as per provisions of 13th proviso to section 10(23C).

8. The above approval is given only for the purpose of section 10(23C) (via) of the Income-tax Act, 1961 and not for any other purpose/s.

9. The approval shall be void if it is subsequently found that it has been obtained by fraud or misappropriation of fact.

10. This approval shall not apply in relation to any income from any activity in the nature of trade, commerce or business or rendering of any service in relation to trade commerce or business irrespective of the nature of use or application or retention of income from such activity.

11. The approval shall not apply in relation to anonymous donations in terms of the fifteenth proviso to Sec. 10(23C) r.w.s. 115 BDC of the Income-tax Act.

[No. NSK/CCIT/10(23C)(vi)/2009-10/1117]

V. K. SHRIDHAR, Chief Commissioner of Income Tax

नासिक, 8 जुलाई, 2009

आयकर निष्पाकरी 1961 की धारा 10(23ग) (vi) के
तहत अधिसूचना

सं. आ. 1973. — आयकर निष्पाकरी, 1962 के नियम 2ग क के तहत धारा 10 के खंड (23ग) के उप-खण्ड (vi) द्वारा प्रदत्त शर्तियों का प्रयोग करते हुए, मैं, मुख्य आयकर अनुमान, नासिक एतावत कर्मचारी के.के. सय्योक्ता सोसायटी, अजुतकाम, पंचवटी, नासिक को निम्नलिखित शर्तों के

अधीन निर्धारण वर्ष 2007-2008 तक आयकर संबंधी उक्त धारा के लिए निम्नानुसार अनुमोदन प्रदान करता है :—

1. निर्धारिती, अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अमर्यादता उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है।

2. निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से अपनी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करेगा।

3. यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाष हो जब तक ऐसा कारोबार बोर्ड के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों।

4. निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी धारा (23ग) के दसवें परंतुक के अनुसार लेखा परीक्षा रिपोर्ट के साथ नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा।

5. विघटन की स्थिति में अवशिष्ट (बची हुई) आस्तियाँ किसी ऐसे संस्थान को दी जाएगी जिसके उद्देश्य समान हों, और इन आस्तियों का कोई भी भाग संस्थान के सदस्यों को नहीं दिया जाएगा।

6. यह अनुमोदन, अधिनियम की धारा 143(3) के परंतुक के प्रावधानों के शर्त पर आधारित है।

7. अधिनियम की धारा 10 (23ग) के 13वें परंतुक के प्रावधानों के अनुसार भविष्य में अनुमोदन रद्द किया जा सकेगा।

8. यह अनुमोदन आयकर अधिनियम 1961 की मात्र धारा 10(23ग) (Via) के लिए ही दिया जा रहा है, अन्य किसी उद्देश्य से नहीं।

9. यदि बाद में यह पाया जाए कि यह अनुमोदन तथ्यों के दुरुपयोग से अथवा धोखा-धड़ी करके प्राप्त किया है, तो यह अनुमोदन शून्यकृत हो (प्रभावहीन) जाएगा।

10. कोई आय जो किसी व्यवसाय, वाणिज्य, उद्योग की गतिविधियों से अथवा व्यवसाय, वाणिज्य, उद्योग के संबंध में दी गई सेवाओं के एवज में प्राप्त हो, भले ही इन गतिविधियों से प्राप्त आय के उपयोग या निवेश या संचय की प्रकृति कुछ भी हो उन पर यह अनुमोदन लागू नहीं होगा।

11. आयकर अधिनियम की धारा 115 बीबीसी के साथ पठित धारा 10(23सी) के चंद्रहवें परंतुक को देखते हुए यह प्रावधान, गुप्त दानों के संबंध में लागू नहीं होगा।

[सं. नं./मु.आ.आ./10(23ग)(VI)2009-10/के.के. डब्ल्यू/1189]

वी. के. श्रीधर, मुख्य आयकर आयुक्त

Nashik, the 8th July, 2009

Notification under Section 10(23C)(vi) of the Income Tax Act, 1961

S.O. 1973.—In exercise of the powers conferred on me by the sub-clause (vi) of clause (23C) of the Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income Tax, Rules, 1962 I, the Chief Commissioner of Income Tax Nashik hereby accord approval to "Karmavir K.K. Wagh Education Society, Amrutdham, Panchavati, Nashik for the purpose the said section from A.Y. 2007-2008 onwards, subject to the conditions mentioned hereunder :

1. The assessee will apply its income, or accumulate for application wholly and exclusively to the objects for which it is established;

2. The assessee will not invest or deposit its fund (other than voluntary contribution received and maintained in the form of jewellery, furniture etc.) otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11.

3. This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

4. The assessee will regularly file its return of income alongwith audit report as per tenth proviso to sec. 10(23C) before the income-tax authority in accordance with the provisions of the Income-Tax 1961;

5. In the event of dissolution, its surplus assets will be given to an organization with similar objectives and no part of the same will go to any of the members of the institution.

6. The approval granted shall be subject to the provision of proviso to section 143 (3) of the Act.

7. The approval may be withdrawn in future as per provisions of 13th proviso to section 10(23C).

8. The above approval is given only for the purpose of section 10(25C) (via) of the I.T. Act, 1961 and not for any other purpose/s.

9. The approval shall be void if it is subsequently found that it has been obtained by fraud or misappropriation of fact.

10. This approval shall not apply in relation to any income from any activity in the nature of trade, commerce or business or rendering of any service in relation to trade commerce or business irrespective of the nature of use or application or retention of income from such activity.

11. The approval shall not apply in relation to anonymous donations in terms of the fifteenth Proviso to Sec. 10(23C) r.w.s. 115 BBC of the I.T. Act.

[No. NSK/OCIT/10(23C)(vi)/2009-10/KKW/1189]

V. K. SHRIDHAR, Chief Commissioner of Income Tax

तिरुचिरापल्ली, 9 जुलाई, 2009

आयकर अधिनियम, 1961 की धारा 10(23सी) (vi) के अधीन अनुमोदन

का. आ. 1974.—आयकर अधिनियम, 1961 (1961 की 43) की धारा 10 के खंड (23सी) के उप खण्ड (vi) के साथ पठित आयकर नियम, 1962 के 2 सी ए द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपरोक्त उप खण्ड में क्ताए गए प्रयोजनों के लिए विधिरण वर्ष 2009-2010 से दी सुदर्शन एजुकेशनल ट्रस्ट, सुदर्शन स्ट्रीट, पेलस नगर, कलेक्टरस ऑफिस के सामने पुदुकोट्टै-622005 को निम्नलिखित शर्तों के अनुसार अनुमोदन दिया जाता है :

- 2 (i) निर्धारित आयकर अधिनियम की धारा 1961 की धारा 10 के खंड (23 सी) के उप खंड (vi) के साथ पठित आकर नियम, 1962 के 2 सी ए के प्रावधानों के अनुसार अनुपालन करेगी ।
- (ii) अधिनियम 10 (23सी) के तीसरे परन्तुक के खंड (आ) से अपेक्षित यह निर्धारित अपनी आय का उन उद्देश्यों के लिए पूर्णतः और अनन्यतः उपयोग करती है या उपयोग करने के लिए संचयन करती है और यदि उसकी आय का पंद्रह प्रतिशत या उससे अधिक का संचयन हो जाता है वहां उसके आय के संचयन की अवधि किसी भी दशा में पांच वर्ष तक अधिक नहीं होगी ।
- (iii) अधिनियम 10 (23सी) के तीसरे परन्तुक के खंड (ब) के सी अपेक्षित तथा धारा 11 की उप-धारा (5) में विनिर्दिष्ट एक या अधिक रूपों या पद्धतियों से किसी भी अवधि के लिए निर्धारित अपनी निधि से अन्यथा निवेशों और निक्षेपों (आभूषण एवं फर्नीचर या ऐसे वस्तु के रूप में प्राप्त और रखे गए स्वेच्छिक अभिदाय के अलावा) में नहीं करेगी ।
- (iv) यह अनुमोदन किसी ऐसी आय के लिए लागू नहीं होगा जो निर्धारित द्वारा कारोबार व्यापार से प्राप्त होती है या कारोबार या व्यापार से अर्जित आय का प्रयोग या प्रतिधारण ऐसे कार्यों की सेवा में प्रदान किया गया है ।
- (v) अधिनियम की धारा 10 (23सी) के दसवें परन्तुक के अनुसार यह निर्धारित अपनी बहिर्बो लेखा परीक्षित कराएगी और अधिनियम की धारा 139 (4 सी) के अनुसरण में नियमित तौर पर लेखा परीक्षा की रिपोर्ट के साथ विवरणी फाइल करेगी ।
- (vi) न्यास के भंग होने पर उसके अधिवेश एवं अस्तित्व ऐसे संगठन को दी जाएगी जो पूर्णतः शैक्षिक प्रयोजनों के लिए है और लाभ के प्रयोजनार्थ नहीं है और अधिनियम की धारा 13 (3) में विनिर्दिष्ट अनुसार उसका कोई भी भाग प्रत्यक्ष या अप्रत्यक्ष रूप से निर्धारित के हितधिकारी या अन्य किसी को नहीं जाएगा ।
- (vii) अधिनियम 10 (23सी) के पंद्रहवें परन्तुक तथा धारा 115 बी बीसी के साथ पठित यह अनुमोदन अनाम संपत्तियों के लिए लागू नहीं होगा ।

3. उपरोक्त अनुमोदन अधोहस्ताक्षरी द्वारा वापस ले लिया माना जाएगा, यदि अधिनियम की धारा 10 (23सी) के तेरहवें परन्तुक के अनुसरण में नहीं है तथा उसकी गतिविधियाँ असली या प्रत्यक्ष नहीं है या गतिविधियाँ स्वीकृति में उल्लिखित सभी या किंहीं शर्तों के अनुसार नहीं कही जा रही हैं ।

[सी. सं. 935(1)/मु.आ.आ./तिरुचि/2008-09]

कमल कान्त त्रिपाठी, मुख्य आयकर आयुक्त

Trichy, the 9th July, 2009

Approval under Section 10(23C)(vi) of the Income Tax Act, 1961

S.O. 1974.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961(43 of 1961) read with rule 2CA of the Income-Tax Rules, 1962 I, the Sudharsan Educational Trust, Sudharsan Street, Palace Nagar, Opp. Collector's Office, Pudukottai- 622 005 is hereby approved for the purposes of the said sub-clause, from the assessment year, 2009-2010 onwards, subject to the following conditions :

2. (i) The assessee shall conform to and comply with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.
- (ii) The assessee shall apply its income or accumulate the same for application wholly and exclusively towards its objects and, in case more than fifteen per cent of its income is accumulated, the period of accumulation of the same shall in no case exceed five years, as required in clause (a) of the third proviso to section 10 (23C) of the Act.
- (iii) The assessee shall not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery or furniture) for any period otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 of the Act, as required in clause (b) of the third proviso to section 10 (23C) of the Act.
- (iv) This approval shall not apply in relation to any income from any activity in the nature of trade, commerce or business or rendering of any service in relation to trade, commerce or business irrespective of the nature of use or application or retention of income from such activity.
- (v) The assessee shall get its accounts audited in accordance with the tenth proviso to section 10 (23C) of the Act and regularly file its return along with the audit report in accordance with section 139 (4C) of the Act.
- (vi) In the event of dissolution of the assessee trust, its surplus and assets shall be given to an organization which exists solely for educational purposes and not for the

purposes of profit and no part of the same shall go directly or indirectly to any of the beneficiaries of the assessee or anybody specified in Section 13(3) of the Act.

- (vii) The approval shall not apply in relation to anonymous donations in terms of the fifteenth proviso to Section 10(23C) r.w.s. 115BEC of the Act.

3. The above approval is liable to be withdrawn by the undersigned in accordance with the thirteenth proviso to Section 10(23C) of the Act, if it is subsequently found that the income of the assessee trust is not applied in accordance with para 2(ii) supra, or its funds are not invested or deposited in accordance with para 2(iii) supra, or its activities are not genuine, or if they are not being carried out in accordance with all or any of the conditions subject to which the approval is granted.

[C. No. 935(1)/CCIT/TRY/2008-09]

K. K. TRIPATHI, Chief Commissioner of Income Tax

MINISTRY OF FINANCE
(Department of Revenue)
(Central Board of Direct Taxes)
CORRIGENDUM

New Delhi, the 15th July, 2009

S.O. 1975.—In the Notification Number 52/2009, dated 25-6-2009 the words and figure “with effect from 1-4-2010” may be corrected to read as “with effect from Assessment year 2010-11”.

Other terms and condition of the said notification remain unchanged.

[F. No. 203/20/2009/ITA-II]

Dr. SANJAY KUMAR LAL, Under Secy. (ITA-II)

सूचना और प्रशासन मंत्रालय

नई दिल्ली, 15 जुलाई, 2009

का. आ. 1976.—इस मंत्रालय की दिनांक 29 मार्च, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 29-3-2009 से दिनांक 31-8-2009 तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/2/2007-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 15th July, 2009

S.O. 1976.—In continuation of this Ministry's notification of even number dated 29th March, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification)

Rules, 1983, the Central Government is pleased to extend the term of the members of the Chennai Advisory Panel of the Central Board of Film Certification for the period from 29-3-2009 to 31-8-2009.

[F. No. 809/2/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का. आ. 1977.—इस मंत्रालय की दिनांक 8 जनवरी, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 8-1-2009 से पैनल के पुनर्गठित होने की तारीख तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/1/2006-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1977.—In continuation of this Ministry's notification of even number dated 8th January, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Kolkata Advisory Panel of the Central Board of Film Certification for the period from 8-1-2009 and till the date the panel is reconstituted.

[F. No. 809/1/2006-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का. आ. 1978.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 31-5-2009 से दिनांक 31-8-2009 तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/1/2007-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1978.—In continuation of this Ministry's notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Hyderabad Advisory Panel of the Central Board of Film Certification for the period from 31-5-2009 to 31-8-2009.

[F. No. 809/1/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का.आ. 1979.—इस मंत्रालय की दिनांक 2 जनवरी, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के गुवाहाटी सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 2-1-2009 से पैनल के पुनर्गठन होने की तारीख तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/3/2006-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1979.—In continuation of this Ministry's notification of even number dated 2nd January, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Guwahati Advisory Panel of the Central Board of Film Certification for the period from 2-1-2009 and till the date of reconstitution of the Panel.

[F.No. 809/3/2006-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का.आ. 1980.—इस मंत्रालय की दिनांक 8 जनवरी, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के कटक सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 8-1-2009 से पैनल के पुनर्गठन होने की तारीख तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/2/2006-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1980.—In continuation of this Ministry's notification of even number dated 8th January, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Cuttack Advisory Panel of the Central Board of Film Certification for the period from 8-1-2009 till the date the panel is reconstituted.

[F.No. 809/2/2006-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का.आ. 1981.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन

बोर्ड के तिरुवनन्तपुरम सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 11-7-2009 से दिनांक 31-8-2009 तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/6/2007-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1981.—In continuation of this Ministry's notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification for the period from 11-7-2009 to 31-8-2009.

[F.No. 809/6/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 16 जुलाई, 2009

का.आ. 1982.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के बंगलूर सलाहकार पैनल के सदस्यों के सेवा-काल को दिनांक 11-7-2009 से 31-8-2009 तक अवधि नए पैनल के गठित होने की तारीख तक, इनमें से जो भी पहले हो, की अवधि के लिए बढ़ाती है।

[फा. सं. 809/5/2007-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 16th July, 2009

S.O. 1982.—In continuation of this Ministry's notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Bangalore Advisory Panel of the Central Board of Film Certification for the period from 11-07-2009 to 31-08-2009 or till a new panel is constituted whichever is earlier.

[F.No. 809/5/2007-F(C)]

AMITABH KUMAR, Director (Films)

विदेश मंत्रालय

(सीसीपी प्रमाण)

नई दिल्ली, 2 जुलाई, 2009

का.आ. 1983.—राजनयिक और कौंसलीय ऑफिसर (रायथ और फीस) अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार द्वारा श्री मन्मोहन दास, सहायक को

2-7-2009 से भारत के प्रधान कौंसलावास, मिलां में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्रधिकृत करती है।

[सं टी-4330/1/2006]

आर. के. पेरेन्डिया, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 2nd July, 2009

S.O. 1983.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948, the Central Government hereby authorize Shri Manoranjan Das, Assistant to perform the duties of Assistant Consular Officer in the Consulate General of India, Milan with effect from 2nd July, 2009.

[No.T-4330/1/2006]

R. K. PERINDIA, Under Secy. (Consular)

नई दिल्ली, 9 जुलाई, 2009

का.आ. 1984.—राजनयिक और कौंसुलीय ऑफिसर (जापान और फीस) अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्री सुरेश कुमार, उच्च श्रेणी लिपिक को 9-7-2009 से भारत के प्रधान कौंसलावास, न्यूयार्क में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्रधिकृत करती है।

[सं टी-4330/1/2006]

आर. के. पेरेन्डिया, अवर सचिव (कौंसुलर)

New Delhi, the 9th July, 2009

S.O. 1984.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948, the Central Government hereby authorize Shri Suresh Kumar, UDC to perform the duties of Assistant Consular Officer in the Consulate General of India, New York with effect from 9th July, 2009.

[No.T-4330/1/2006]

R. K. PERINDIA, Under Secy. (Consular)

जन संसाधन मंत्रालय

नई दिल्ली, 7 जुलाई, 2009

का.आ. 1985.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में इस मंत्रालय के संगठन के निम्नलिखित कार्यालय को, जिसके 80% कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

केन्द्रीय भूमिजल बोर्ड,
उत्तर पश्चिमी हिमाचल क्षेत्र,
जम्मू।

[सं-1/1/2008-हिन्दी]

एस. एस. के. राव, उप सचिव

MINISTRY OF WATER RESOURCES

New Delhi, the 7th July, 2009

S.O. 1985.—In pursuance of Sub-Rule (4) of Rule (10) of the Official Language (Use for Official Purposes of the Union) the Central Government hereby notifies the following of this ministry the 80% staff whereof have acquired working knowledge of Hindi.

Central Ground Water Board,
North West Himalian Region,
Jammu.

[No. 1/1/2008-Hindi]

S. S. K. RAO, Dy. Secy.

नई दिल्ली, 13 जुलाई, 2009

का.आ. 1986.—सार्वजनिक परिक्षेत्र (अनधिकृत दखलदार की बेदखली) अधिनियम, 1971 (1971 का 40) के अनुच्छेद 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और जल संसाधन मंत्रालय में दिनांक 15 मार्च, 1988 के सं. का.आ. 1121 वाली भारत सरकार की अधिसूचना का अधिकरण करते हुए केन्द्र सरकार एतद्वारा नीचे दी गई तालिका के कॉलम (1) में दर्शाए गए अधिकारियों, जो बेतवा नदी बोर्ड, एक सार्वजनिक प्रतिकरण के अधिकारी और भारत सरकार के राजपत्रित अधिकारियों की श्रेणी के समान हैं, को उपरोक्त अधिनियम के उद्देश्य के लिए संपन्न अधिकारी नियुक्त करती है, जो उपरोक्त तालिका के कॉलम (2) में संगत प्रविष्टि में उल्लिखित सार्वजनिक परिक्षेत्र की श्रेणियों के संबंध में उनके कार्य-क्षेत्र की स्थानीय सीमाओं के अन्दर उपरोक्त अधिनियम के द्वारा अथवा इसके अंतर्गत संश्लेष अधिकारियों को प्रदत्त शक्तियों का प्रयोग करने और उन्हें सौंपे गए कार्यों का निष्पादन करने।

तालिका

अधिकारी का पदनाम	सार्वजनिक परिक्षेत्र की श्रेणियों और कार्य-क्षेत्र की स्थानीय सीमाएं
1	2
1. कार्यपालक अभियंता, राजपट बांध, पर्यवरण एवं भूमि अधिग्रहण प्रभाग, राजपट, जिला लखितपुर (उत्तर प्रदेश)	बेतवा नदी बोर्ड से संबंधित और राजपट बांध, पर्यवरण एवं भूमि अधिग्रहण प्रभाग, राजपट, पोस्ट ऑफिस राजपट, जिला लखितपुर (उत्तर प्रदेश) के प्रशासनिक निबंधन के अंतर्गत आने वाले सभी परिक्षेत्र।
2. कार्यपालक अभियंता, राजपट विद्युत गृह (किण्वित) और कोर प्रभाग, राजपट, जिला लखितपुर (उत्तर प्रदेश)	बेतवा नदी बोर्ड से संबंधित और राजपट विद्युत गृह (किण्वित) और कोर प्रभाग, राजपट, पोस्ट ऑफिस राजपट, जिला लखितपुर (उत्तर प्रदेश) के प्रशासनिक निबंधन के अंतर्गत आने वाले सभी परिक्षेत्र।

[फा. सं. 13/16/2008-जीबी]

यू. एन. राजिवर, सचिव

New Delhi, the 13th July, 2009

S.O. 1986.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of the notification of Government of India in the Ministry of Water Resources, number S.O. 1121, dated the 15th March, 1988, Central Government hereby appoints the officers mentioned in column (1) of the Table below, being officers of the Betwa River Board, a statutory authority and equivalent to the rank of gazetted officers of the Government of India to be the state officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officers by or under the said Act, within the local limits of their jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of officer	Categories of public premises and local limits of jurisdiction
1	2
1. Executive Engineer, Rajghat Dam, Environment and Land Acquisition Division, Rajghat, District Lalitpur (Uttar Pradesh)	All premises belonging to the Betwa River Board and under the administrative control of its Rajghat Dam, Environment and Land Acquisition Division, Rajghat, Post Office Rajghat, District Lalitpur (Uttar Pradesh)
2. Executive Engineer, Rajghat Power House (Civil) and Store Division, Rajghat, District Lalitpur (Uttar Pradesh).	All premises belonging to Betwa River Board and under the administrative control of its Rajghat Power House (Civil) and Store Division, Rajghat, Post Office Rajghat, District Lalitpur (Uttar Pradesh)

[F.No. 13/16/2008-GB]

U. N. PANJIAR, Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 30 जून, 2009

का.आ. 1987.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में एतद्द्वारा निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त प्रथम अनुसूची में “मदुरई कामराज विश्वविद्यालय” और उससे संबंधित प्रविष्टियों के बाद “मीनाक्षी विश्वविद्यालय चेन्नई, तमिलनाडु” जोड़ा जाएगा और “मीनाक्षी विश्वविद्यालय चेन्नई, तमिलनाडु” के सामने शीर्षक ‘मान्यताप्राप्त चिकित्सा अर्हता’ (इसके पश्चात् स्तंभ (2) के रूप में संदर्भित) के अंतर्गत और पंजीकरण के लिए संक्षेपण (इसके पश्चात् स्तंभ (3) के रूप में संदर्भित) शीर्षक के अंतर्गत निम्नलिखित अंतःस्थापित किया जाएगा, अर्थात् :—

2

3

आयुर्विज्ञान तथा	एम.बी.बी.एस.
स्वास्थ्य विज्ञान स्नातक	(यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी यदि यह मीनाक्षी मेडिकल कॉलेज इंड रिसर्च इंस्टीट्यूट, इनाथूर, कांचीपुरम, तमिलनाडु में प्रशिक्षण प्राप्त कर रहे छात्रों के संबंध में मीनाक्षी विश्वविद्यालय, चेन्नई, द्वारा मार्च, 2009 अथवा उसके बाद प्रदान की गई हो)

[सं. नू.-12012/31/2009-एम.ई.(पी.II)]

के. वी. एस. राव, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 30th June, 2009

S.O. 1987.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said First Schedule after “Madurai Kamraj University” and entries thereto “Meenakshi University, Chennai, Tamil Nadu” shall be added and against “Meenakshi University, Chennai, Tamil Nadu” under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], and under the heading ‘abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:—

2	3
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S (This shall be a recognized medical qualification when granted by Meenakshi University, Chennai, Tamil Nadu on or after March, 2009 in respect of students trained at Meenakshi Medical College & Research Institute, Enathur, Kanchipuram, Tamil Nadu)

[No. U.-12012/31/2009-ME-(P-II)]

K. V. S. RAO, Dy. Secy.

भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

नई दिल्ली, 9 जुलाई, 2009

का.आ. 1988.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए) विधम, 1976 के नियम 10 के उप-नियम (4) के

अनुसरण में, निम्नलिखित कार्यालयों को, जिनके 80% से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. नागालैंड पल्प एंड पेपर कंपनी लि.,
पो. पेपर नगर, तुली, मोकोकचुंग
नागालैंड-798623

[फा. सं. ई-11012/2/2005-हिन्दी]

एम. आर. बाली, अवर सचिव

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

New Delhi, the 9th July, 2009

S. O. 1988.—In pursuance of the sub-rule (4) of rule 10 of Official Language (Use for official purposes of the union) Rules 1976, the Central Government hereby notifies the following office whereof more than 80% staff have acquired the working knowledge of Hindi :

1. Nagaland Pulp & Paper Company Ltd.
P. O. Paper Nagar,
Tuli, Mokochung,
Nagaland-798623

[F. No. E-11012/2/2005-Hindi]

M. R. BALI, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 17 जुलाई, 2009

का.आ. 1989.—केंद्रीय सरकार, एतद्वारा यह अधिसूचित करती है कि राज्य सभा ने केंद्रीय रेशम बोर्ड अधिनियम, 1948 की धारा 4 की उप-धारा (3) के खण्ड (ग) के अनुसरण में इस अधिनियम के प्रावधानों के अध्याधीन श्री के.बी. शनप्पा, सदस्य, राज्य सभा को तीन वर्षों की अवधि के लिए केंद्रीय रेशम बोर्ड के सदस्यों के रूप में कार्य करने के लिए 14 जुलाई, 2009 को विधिवत चुन लिया है।

[फा. सं.-25012/1/2008-रेशम]

भूपेन्द्र सिंह, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 17th July, 2009

S.O. 1989.—The Central Government hereby notifies that the Rajya Sabha has in pursuance of clause (c) of sub-section (3) of Section 4 of the Central Silk Board Act, 1948, duly elected Shri K. B. Shanappa, Member, Rajya Sabha, on 14th July, 2009 to serve as a member of the Central Silk Board for a period of three years subject to the provisions of the Act.

[F. No.-25012/1/2008-Silk]

BHUPENDRA SINGH, Jt. Secy.

उपभोक्ता कार्य एवं लोक वितरण मंत्रालय

(उपभोक्ता कार्यविभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 8 जुलाई, 2009

का. आ. 1990.—भारतीय मानक ब्यूरो (प्रमाणन) विनियमन, 1988 के विनियमन 5 के उप-विनियमन (6) के तहत भारतीय मानक ब्यूरो यह अधिसूचित करता है कि निम्नलिखित ब्यूरो वाले लाइसेंस उनके आगे दी गई तारीखों से रद्द किए जाते हैं।

अनुसूची

क्रम सं.	लाइसेंस सं.	लाइसेंस वाले का नाम व पता	समयबाधित लाइसेंस द्वारा आवृत्त वस्तु/प्रक्रिया के साथ संगत भारतीय मानक	समयबाधित तारीख
1.	6899515	मैसर्स कोयम्बतूर मुरुगन मिल्स मेट्टुपालयम रोड, पी.ओ. बॉक्स सं. 7004, कोयम्बतूर-641043	यूनीफॉर्म के लिए पॉलीस्टर ब्लेन्ड सूटिंग मामा : 11248 : 1995	2009-4-08

[सं. सी एम डी/13 : 13]

पी. के. गम्भीर, उप महानिदेशक (मार्क्स)

MINISTRY OF CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 8th July, 2009

S. O. 1990.—In pursuance of sub-regulation (6) of Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled with effect from the date indicated against each.

SCHEDULE

Sl. No.	Licence No.	Name and Address of the Licensee	Article/Process with relevant Indian standard covered by the licence cancelled	Date of Cancellation
1.	6899515	M/s. Coimbatore Murugan Mills Mettupalayam Road, P.O. Box No. 7004, Coimbatore-641043	Textiles—Polyester blend suiting for Uniforms, IS : 11248 : 1995	2009-04-08

[No. CMD/13 : 13]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली 8 मार्च, 2009

का. आ. 1991.-पारसीय मानक ब्यूरो (प्रकाशन) विधिवत, 1988 के विन 4 के उप-विन (5) के अनुसार में पारसीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि निम्न तालिकाओं के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

—

क्रम संख्या	लगाइयेस संख्या	स्वीकृत करने की तिथि, वर्ष/भाग	लगाइयेसवादी का नाम व पता	मालकी नाम का सीरियल	शेरा संख्या	भाग	अनु	वर्ष
1	2	3	4	5	6	7	8	9
1.	एल-9705285	15-1-2009	श्री. जगन्नाथ जीकरेडिगत प्र. लि. रकम नं. 12/60/8 मौज भिरवापुर, जिला डेड, बरसातगढ़, जिला फरीदाबाद, हरियाणा	फैरीदाबाद शेरा पता (आवृत्ति) 14543 फैरीदाबाद शेरा पता के अतिरिक्त)				2004
2.	एल-9704990	13-1-2009	श्री. अमरी इन्फान्ट उद्योग लि., 47 कि.मी., बोरली रोडगढ़ रोड, रोडगढ़ बरसात, बरसातगढ़ जिला झज्जर-124507 हरियाणा	अमरी के शेरा पता के शेरा पता की शेरा	1161			1998
3.	एल-9705083	14-1-2009	श्री. इंटिग्रेटेड शेरा कम्पनी प्र. लि., बरसात नं. 1679, पार्क रोड, एम.आई.ई., बरसातगढ़, जिला झज्जर	अमरी के शेरा पता के शेरा पता के शेरा पता के शेरा पता के	4159			2002
4.	एल-9705184	15-1-2009	श्री. कनका लैबोरेटरी इन्फान्ट उद्योग, बी-1908, एम.आई.ई., बरसातगढ़, जिला झज्जर	अमरी के शेरा पता के शेरा पता के शेरा पता के शेरा पता के	10086			1982
5.	एल-9705689	16-1-2009	श्री. अमरी इन्फान्ट उद्योग लि., 47 कि.मी., बोरली रोडगढ़ रोड, रोडगढ़ बरसात, बरसातगढ़, जिला झज्जर-124507 हरियाणा	अमरी के शेरा पता के शेरा पता के शेरा पता के शेरा पता के	1239	01		2004
6.	एल-9707289	29-1-2009	श्री. अल्ट्रा इन्फान्ट उद्योग व कमिटी इन्फान्ट, पार्क नं. 98/5, जिला डेड, बोरली रोडगढ़ मन्दिर के पीछे, फरीदाबाद-121001 हरियाणा	अमरी के शेरा पता के शेरा पता के शेरा पता के शेरा पता के	8472			1998

[सं. सी एम डी/13:11]

पी. के. गजनीर, उपमहानिदेशक (गृह)

New Delhi, the 8th July, 2009

S.O. 1991.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

CONCLUSIONS

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the standard	IS No.	Part	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	L-9705285	15-01-2009	M/s. Nanyo Beverages Pvt. Ltd. Rakha No. 12/66/8 Village Mirjapur, Tigaon Road, Ballabgarh, Distt. Faridabad, Haryana	Packaged drinking water (Other than Packaged Natural Mineral Water)	14543			2004

1	2	3	4	5	6	7	8	9
2	L-9704990	13-01-2009	M/s. Arcee Ispat Udyog Ltd., 47 Km., Delhi Rohtak Road, Rohad Bypass, Bahadurgarh-124507 Distt. Jhajjar	Steel tubes used for structural purposes	1161			1998
3	L-9705083	14-01-2009	M/s. Hottip Heat & Controls P. Ltd., Khasra No. 1679, MIE, Part B, Bahadurgarh, Distt. Jhajjar	Mineral filled sheathed heating elements	4159			2002
4	L-9705184	15-01-2009	M/s. Consal Laboratory Equipments, B-1908, M. I. E., Bahadurgarh, Haryana	Moulds for use in tests of cement and concrete	10086			1982
5	L-9705689	16-01-2009	M/s. Arcee Ispat Udyog Ltd., 47 Km., Delhi Rohtak Road, Rohad Bypass, Bahadurgarh-124507, Distt. Jhajjar	Mild Steel tubes, tubulars and other wrought steel fittings	1239	01		2004
6	L-9707289	29-01-2009	M/s. Ultra Engg. & Casting Industries, Plot No. 9815, Nissen Hut, Opp. Bankey Bihari Mandir, Distt. Faridabad, Haryana.	Particulate Regenerative or clear, cold water	8472			1998

[No. CMD/13:11]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली 10 जुलाई, 2009

का.आ. 1992.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानकों की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिरिक्त भारतीय मानक अथवा मानकों यदि कोई हो की संख्या और वर्ष	स्थापित तिथि
1	2	3	4
1.	आई एस/आई एस ओ 4090:2001 फोटोग्राफी-चिकित्सीय रेडियोग्राफी कैमरेट्स/स्क्रीन/फिल्में तथा संपठनीय प्रतिलिपि फिल्म-आयाम और विशिष्टियाँ	आई एस 6991:1985, आई एस 9644:1980 एवं आई एस 10554:1983	जुलाई 2008
2.	आई एस 13450 (भाग 1) : 2008/आई ई सी 60601-1:2005 चिकित्सीय विद्युत उपकरण प्रणाली, बुनियादी सुरक्षा एवं आवश्यक निष्पादन के लिए सामान्य अपेक्षाएँ (पहला पुनरीक्षण)	आई एस 13450 (भाग 1) : 1994/आई ई सी पब 601-1:1988	अगस्त 2008

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर साहब चक्रे मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा राज्या कार्यालयों: अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयंबटूर, मुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एम एच डी/जी-3.5]

रजुल कुमार, वैज्ञानिक एक एवं प्रमुख (एम एच डी)

New Delhi, the 10th July, 2009

S.O. 1992.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that the Indian standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. and year of Indian Standards, if any, superseded by the new Indian standard	Date of established
(1)	(2)	(3)	(4)
1.	IS/ISO 4090 : 2001 Photography—Medical radiographic cassettes/screens/films and hard-copy imaging films—Dimensions and specifications.	IS 6991 : 1985, IS 9644 : 1980 and IS 10554 : 1983	July 2008
2.	IS 13450(Part 1) : 2008/IEC 60601-1 : 2005 Medical Electrical Equipment Part 1 General requirements for the basic safety and essential performance (First Revision)	IS 13450(Part 1) : 1994/IEC Pub 601-1 : 1988	August 2008

Copy of these Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MHD/G-3.5]

RAHUL KUMAR, Scientist-'F' & Head (MHD)

नई दिल्ली 14 जुलाई, 2009

का. आ. 1993.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस सं. मई 2009	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
1	2	3	4	5
1.	3021730	5-5-2009	मै. डब्ल्यू.जी.के.के.एस. प्रा. लि., एच 581 ए से हच 592 ए, विस्वकर्मा औद्योगिक एरिया, जयपुर-302013, राजस्थान	7098 (भाग 2) : 1985 क्रासलिकड पोलिइथिलिन इन्सुलेटेड पीवीसी रीबेड केबल्स
2.	3022227	8-5-2009	मै. बिम्सन केबल्स प्रा. लि., जे 1/52-59, टीको औद्योगिक एरिया, शाहजहाँपुर, जिला अजमेर, राजस्थान	7098 (भाग 1) : 1988 क्रासलिकड पोलिइथिलिन इन्सुलेटेड पीवीसी रीबेड केबल्स
3.	3024029	8-5-2009	मै. बी.के. सन्स ज्वेलर्स, गोल प्याड, नया बाजार, अजमेर-305001, राजस्थान	1417:1999 हॉल मार्किंग ऑफ गोल्ड ज्वेलरी
4.	3022328	11-5-2009	मै. चेतन उद्योग, जे 513, रोड नं 9 ए, विस्वकर्मा औद्योगिक एरिया, जयपुर 302013, राजस्थान	694 : 1990 पीवीसी इन्सुलेटेड केबल्स
5.	3022429	11-5-2009	मै. बजरंग वायर प्रोडक्ट्स (इ) प्रा. लि., यूनिट-2, प्लॉट नं. 15-28, आर्कोडा इंडर (औद्योगिक पार्क) जयपुर-302013, राजस्थान	398 (भाग 2) : 1996 एसीएसआर
6.	3023835	14-5-2009	मै. काया मया इन्डस्ट्रीज, जे 1/322, आईजीसी कारा, बीकानेर-334601, राजस्थान	2547 (भाग 1) : 1976 जिप्सम बिल्डिंग प्लास्टर

1	2	3	4	5
7.	3023936	14-5-2009	मै. पाईप इण्डस्ट्रीज, एनएच नं. 8, ग्राम बडपाला, डूंगरपुर, राजस्थान	458:2003 प्रीकास्ट कंक्रीट पाईप्स (रीइन्फोर्समेंट सहित व बिना)
8.	3024736	14-5-2009	मै. दिनेश इरिगेशन प्रा. लि. 86 बी II, झोटवारा औद्योगिक एरिया, जयपुर-302012 राजस्थान	12818:1992 अनप्लास्टिक्साइड पीवीसी स्क्रीन एवं कॉस्टिंग पाईप्स फार बोर/ट्यूबवेल
9.	3024938	18-5-2009	मै. स्काई इंटर्नेशनल, गुलाब विहार, सेक्टर 6, प्रताप नगर, शेओपुर रोड, सांगानेर, जयपुर-302033 राजस्थान	14543:2004 पैकेज्ड ड्रिंकिंग वाटर
10.	3025334	19-5-2009	मै. आदित्य सीमेंट यूनिट II, (ग्रसिम इण्डस्ट्रीज लि. की इकाई) आदित्यपुरम-312622 चित्तौड़गढ़, राजस्थान	8112:1989 43 ग्रेड, ओ. पी. सी.

[सं. सी.एम.डी/13:11]

मै. के. गम्भीर, उपमहानिदेशक (मुहर)

New Delhi, the 14th July, 2009

S.O. 1993.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedules :

SCHEDULE

Sl. No.	Licence No. (CM/L)	Operative Date MAY 2009	Name and Address of the Licensee	Article/Process Covered by the licences and the relevant IS : Designation
1.	3021730	5-5-2009	M/s. Dynamic Cables Pvt. Ltd. H-581 (A) to H-592 (A) V.K.I. Area, Jaipur-302013 Rajasthan	7098 (Part 2): 1985 Crosslinked Polyethylene Insulated PVC Sheathed Cables
2.	3022227	8-5-2009	M/s. Brimson Cables Private Limited G-1/52-59, RIICO Industrial Area Shahjahanpur Distt. Alwar Rajasthan	7098 (Part 1): 1988 Crosslinked Polyethylene Insulated PVC Sheathed Cables
3.	3024029	8-5-2009	M/s. B. K. Sons Jewellers Gol Pyao, Naya Bazar Ajmer-305001. Rajasthan	1417: 1999 Hallmarking of Gold Jewellery
4.	3022328	11-5-2009	M/s. Chetan Udyog G-513, Road No. 9A Vishwa Karma Industrial Area, Jaipur-302013 Rajasthan	694: 1990 PVC Insulated Cables
5.	3022429	11-5-2009	M/s. Bajrang Wire Products (I) Pvt. Ltd. Unit-II Plot No. 15-28, Akera Dungar [Industrial Park] Jaipur-302013 Rajasthan	398 (Part 2): 1996 ACSR
6.	3023835	14-5-2009	M/s. Kaya Maya Industries G-1/322, I.G.C. Khara Bikaner-334601 Rajasthan	2547 (Part 1): 1976 Gypsum Building Plaster
7.	3023936	14-5-2009	M/s. Pipe Industries N. H. No. 8, Village Vadapal Dungarpur Rajasthan	458: 2003 Precast Concrete Pipes (With & without Reinforcement)
8.	3024736	14-5-2009	M/s. Dinesh Irrigation Private Limited 86 B II, Jhotwara Industrial Area Jaipur-302012 Rajasthan	12818: 1992 Unplasticized PVC Screen & Casing Pipes for Bore/Tubewell
9.	3024938	18-5-2009	M/s. Sky International Gulab Vihar, Sector-6 Pratap Nagar, Sheopur Road Sanganeer Jaipur-302033 Rajasthan	14543: 2004 Packaged Drinking Water
10.	3025334	19-5-2009	M/s. Aditya Cement-Unit II (A Unit of Grasim Industries Limited) Adityapuram- 312622 Chittorgarh Rajasthan	8112: 1989 43 Grade OPC

[No. CMD/13:11]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली, 15 जुलाई, 2009

का. आ. 1994.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं और वापस ले लिए गए हैं :—

क्रम सं.	रद्द किये गये मानक की संख्या और वर्ष	मानक के तत्काल भाग II, खंड 3, उप-खंड (ii) में का.आ. संकेत और विशिष्ट प्रचलित	टिप्पणी
(1)	(2)	(3)	(4)
1.	आई एस 2646 : 1986 ऑटोमोबाइल जनरेटर (डायनामोस) की विशिष्टि (पहला पुनरीक्षण)	-	मानक प्रयोग में नहीं लाया जा रहा है।
2.	आई एस 5977 : 1981 ऑटोमोबाइल की ली कनेक्टर (डायनामोस) के रेगुलेटर (पहला पुनरीक्षण)	-	वही
3.	आई एस 7528 : 1974 ऑटोमोबाइल हेतु पोर्सीलीन (मॉल्लिड) फ्यूज लिक्स की विशिष्टि	-	वही
4.	आई एस 4384 : 1967 इस्पात के तल सह एवं मौसम-सह दरवाजों की विशिष्टि	-	वर्गीकरण सोसाइटियों के सह-समय भारतीय नौ सेना के इस विषय पर अपने नियम हैं जो इससे संबंधित सबके द्वारा माने जाते हैं और भारतीय मानक का प्रयोग कम हो रहा है।
5.	आई एस 10548 : 1983 अग्नि नियंत्रण एवं जीवन बचाव उपकरण की योजनाएं—प्रतीक	-	इस मानक का कम प्रयोग हो रहा है क्योंकि इस मानक में जो विषय रखा गया है वह IMO से संबंधित है जो सबके द्वारा सीधा प्रयोग किया जाता है।
6.	आई एस 13915 : 1994 पोत-निर्माण-वहन के स्टील के मौसम-सह दरवाजे-विशिष्टि	-	वर्गीकरण सोसाइटियों के साथ-साथ भारतीय नौ सेना के इस विषय पर अपने नियम हैं जो इससे संबंधित सबके द्वारा माने जाते हैं और भारतीय मानक का प्रयोग कम हो रहा है।
7.	आई एस 10289 : 1982 मोपेड के ब्रेक नियंत्रण लीवरों की विशिष्टि	-	आई एस 15783 : 2008 के द्वारा अतिक्रमण
8.	आई एस 10841 : 1984 स्कूटर एवं मोटर साइकिल के फ्रंट ब्रेक कंट्रोल लीवर की विशिष्टि	-	-वही-
9.	आई एस 13493 : 1992 ऑटोमोटिव ब्रीकल - दुपहिप् - ब्रेक लीवर सामर्थ्य अपेक्षाओं के मूल्यांकन की पद्धति	-	-वही-
10.	आई एस 3404 : 1979 स्प्रिंगों के लिए साइकिल के फ्रेम - विशिष्टि	-	समन्वयन आई एस 623 : 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, प्लानक नगर, 9, बलपुर हाइ जयपुर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा राजस्थान कार्यालयों: अजमेर, बीकानेर, जोधपुर, मुल्तानपुर, कोटा, गुवागटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तापुरम में विप्री हेतु उपलब्ध हैं।

[संदर्भ: टी ई डी/जी-16]

टी. वी. सिंह, मैकलानिक ई एवं प्रमुख (टी ई डी)

New Delhi, the 15th July, 2009

S.O. 1994.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Cancelled	S.O. No. and Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 2646 : 1986 Specification for generators (dynamos) for automobiles (first revision)	—	Standard is not in use.
2.	IS 5977 : 1981 Regulators for automobile dc generators (dynamos) (first revision)	—	-do-
3.	IS 7528 : 1974 Specification for porcelain (moulded) fuse links for automobiles	—	-do-
4.	IS 4384 : 1967 Specification for steel water tight and weather tight doors	—	Classification societies as well as Indian Navy have their own rules on the subject which are followed by all concerned and Indian Standard is finding little use.
5.	IS 10548 : 1983 Plans for fire control and life saving equipment—Symbols	—	This standard is finding little use as matter covered in this standard pertains to IMO resolutions which are directly followed by all concerned.
6.	IS 13915 : 1994 Shipbuilding—Ships' steel weather tight doors—Specification	—	Classification societies as well as Indian Navy have their own rules on the subject which are followed by all concerned and Indian Standard is finding little use.
7.	IS 10289 : 1982 Specification for brake control levers for mopeds	—	Superseded by IS 15783 : 2008
8.	IS 10841 : 1984 Specification for front brake control lever for scooters and motorcycles	—	-do-
9.	IS 13493 : 1992 Automotive vehicles—Two wheelers—Method of evaluation of brake lever strength requirements	—	-do-
10.	IS 3404 : 1979 Specification for ladies bicycle frames (first revision)	—	Amalgamated with IS 623 : 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TED/G-16]

T. V. SINGH, Scientist-'E' & Head (Transport Engg.)

नई दिल्ली, 17 जुलाई, 2009

का.आ. 1995.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक(कों) की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आई एस 651 : 2007	1, जून 2009	13-07-2009
2	आई एस 13983 : 1994	3, जून 2009	13-07-2009

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी /राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 17th July, 2009

S.O. 1995.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standard	No. & Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 651 : 2007	1, June 2009	13 July 2009
2	IS 13983 : 1994	3, June 2009	13 July 2009

Copy of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

कोयला संशोधन

नई दिल्ली, 15 जुलाई, 2009

का.आ. 1996.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपलब्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/334 तारीख 22 दिसम्बर, 2008 का निरीक्षण कलेक्टर, कोरबा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता 700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर- 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व) साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को भेजेंगे।

अनुसूची

करताली ब्लाक, अंबिका ओसी., कोरबा क्षेत्र

जिला-कोरबा (छत्तीसगढ़)

रेखांक संख्या-एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि /334 तारीख 22 दिसम्बर, 2008 (पूर्वक्षेपण के लिए अधिसूचना भूमि दर्शाते हुए) :—

क्रम सं.	ग्राम	पटवारी हल्का नम्बर	ग्राम नम्बर	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पण
1.	करताली	10	78	पाली	कोरबा	138.614	भाग
2.	तेन्दुभाठा	10	77	पाली	कोरबा	1.125	भाग
3.	दमियों	09	76	पाली	कोरबा	5.261	भाग

कुल क्षेत्रफल :- 145.000 हेक्टर (लगभग)

या 358.29 एकड़ (लगभग)

सीमा वर्णन :-

- क-ख रेखा ग्राम दमियों के पश्चिमी सीमा में "क" बिन्दु से आरंभ होती है और ग्राम दमियों और तेन्दुभाठा से होती हुई ग्राम तेन्दुभाठा—करताली के सम्मिलित सीमा में बिन्दु "ख" पर मिलती है।
- ख-ग-घ-ङ रेखा ग्राम करताली के मध्य और दक्षिणी भाग से होती हुई ग्राम करताली—गणेशपुर के सम्मिलित सीमा में "ङ" बिन्दु पर मिलती है।
- ङ-च रेखा ग्राम करताली से होती हुई ग्राम तेन्दुभाठा—करताली के सम्मिलित सीमा में बिन्दु "च" पर मिलती है।
- च-छ रेखा ग्राम तेन्दुभाठा और दमियों से होती हुई ग्राम दमियों के पश्चिमी सीमा में बिन्दु "छ" पर मिलती है।
- छ-क रेखा ग्राम दमियों के पश्चिमी सीमा से होती हुई आरंभिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/10/2009-पी.आर.आई.डब्ल्यू-1]

एम. राहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 15th July, 2009

S.O. 1996.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the Schedule hereto annexed ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing Number : SECL/BSP/GM (Plg) / Land /334 dated 22nd December, 2008 of the area covered by this notification can be inspected in the Office of the Collector, Korba (CG) or in the Office of the Coal Controller, 1, Council House Street, Kolkata -700001 or in the Office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the Officer-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh), within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Kartali Block, Ambikha OC, Korba Area
District-Korba(OG.)

Plan No. SECL/BSF/GM(Pig)/Land /334 dated 22nd December, 2008 (Showing the land notified for prospecting) :—

Sl. No.	Village	Patwari Folio Number	Village Number	Tahsil	District	Area in Hectares	Remarks
1.	Kartali	10	78	Pal	Korba	138.614	Part
2.	Tendubhatha	10	77	Pal	Korba	1.125	Part
3.	Damiya	09	76	Pal	Korba	5.261	Part
Total Area :— 145.000 hectares (approximately) OR 358.20 acres (approximately)							

BOUNDARY DESCRIPTION :—

- A-B Line starts from point "A" on the western boundary of village Damiya and passes through the villages Damiya and Tendubhatha and meets at point "B" on the common boundary of villages Tendubhatha — Kartali.
- B-C-D-E Line passes in the middle and southern part of village Kartali and meets at point "E" on the common boundary of villages Kartali—Ganeshpur.
- E-F Line passes through village Kartali and meets at point "F" on the common boundary of villages Tendubhatha—Kartali.
- F-G Line passes through village Tendubhatha & Damiya and meets at point "G" on the western boundary of village Damiya.
- K-A Line passes along the western boundary of village Damiya and meets at starting point "A".

[F. No. 43015/10/2009-PRIW-1]

M. SHAHABUDEEN, Under Secy.

नई दिल्ली, 15 जुलाई, 2009

का.आ. 1997.—केन्द्रीय सरकार को प्रतीत होता है कि, इससे उपर्युक्त अनुसूची में उल्लिखित परिसरों की भूमि में कोयला अभिग्राह्य किए जाने की संभावना है ;

अतः, अब, केन्द्रीय सरकार, कोयला कानून क्षेत्र (अर्थ और विभाग) अधिनियम, 1957 (1957 का 28) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का खनन करने के अपने अन्तर्गत की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाली रेखांक सं. सी-1 (ई) III /एचयूआर/732-0409, तारीख 18 अक्टूबर, 2009 का निर्दिष्ट वेस्टर्न कोलफील्ड्स लिमिटेड (राज्य अनुभाग), कोल इस्टेट, लिमिटेड राज्य, नमपुर-446 001 (महाराष्ट्र) के कार्यालय में या मुख्य महाप्रबंधक (अन्वेषण प्रभाग), केन्द्रीय खान, कोयला और विभाग संयोजन, नौकलवा बाजार, कोल कोट, सभी (राज्य) के कार्यालय में या कोयला नियंत्रक, 1, काउन्सिल हाउस स्ट्रीट, कोलकाता के कार्यालय में या कोयला और विभाग नैतिकेट, नमपुर (महाराष्ट्र) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आनेवाली भूमि में विरयवट सभी व्यक्ति उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट सभी नक्शों, खाटों और अन्य दस्तावेजों को इस अधिसूचना के अन्तर्गत में प्रकाशन की तारीख से नब्बे दिनों के भीतर, महाप्रबंधक, वेस्टर्न कोलफील्ड्स लिमिटेड, उमरेर क्षेत्र, पोस्ट : उमरेर परिकल्पना, लक्ष्मील उमरेर, जिला नमपुर- 441 204 (महाराष्ट्र) के कार्यालय या मुख्य

खनन इंजीनियर (भूरा), वेस्टर्न कोलफील्ड्स लिमिटेड, सम्बन्ध विभाग, कोल ईस्टेट, सिविल लाइन्स, नागपुर -440 001 (महाराष्ट्र) को भेजेंगे।

अनुसूची

दिनेश ओपनकास्ट (मकरधोकरा III) माईन उमरेर क्षेत्र

जिला-नागपुर (महाराष्ट्र)

(रेखांक संख्या-सी-1 (ई) III/एफयूआर/782-0409, तारीख 18 अप्रैल, 2009)

क्रम सं.	ग्राम का नाम	पटवारी सर्कल संख्या	तहसील	जिला	क्षेत्रफल हेक्टर	टिप्पण
1.	मकरधोकरा	17	उमरेड	नागपुर	647.90	भाग
2.	सुकली	16	उमरेड	नागपुर	457.12	भाग
3.	बोपेश्वर	17	उमरेड	नागपुर	213.17	भाग
4.	हेवटी	18	उमरेड	नागपुर	211.72	भाग
5.	कटारा	22	उमरेड	नागपुर	46.88	भाग
6.	दहेगांव	16	उमरेड	नागपुर	37.35	भाग
7.	सायकी	16	उमरेड	नागपुर	10.52	भाग

कुल क्षेत्रफल :- 1624.66 हेक्टर (संगणन)

या 4014.54 एकड़ (संगणन)

सीमा वर्णन :-

- क-ख रेखा ग्राम सायकी और ग्राम सुकली की सम्मिलित ग्राम सीमा पर 'क' बिन्दु से आरंभ होती है और ग्राम सुकली से होती हुई ग्राम सुकली तथा ग्राम हेवटी की सम्मिलित ग्राम सीमा में बिन्दु 'ख' पर मिलती है।
- ख-ग रेखा ग्राम हेवटी से गुजरती हुई ग्राम हेवटी तथा ग्राम बोपेश्वर की सम्मिलित ग्राम सीमा पर बिन्दु 'ग' पर मिलती है।
- ग-घ रेखा ग्राम बोपेश्वर से गुजरती हुई ग्राम बोपेश्वर तथा ग्राम कटारा की सम्मिलित ग्राम सीमा पर बिन्दु 'घ' पर मिलती है।
- घ-ङ रेखा ग्राम कटारा से गुजरती हुई ग्राम कटारा तथा ग्राम बोपेश्वर की सम्मिलित ग्राम सीमा पर मिलती है और ग्राम बोपेश्वर से गुजरती हुई ग्राम बोपेश्वर तथा ग्राम मकरधोकरा की सम्मिलित ग्राम सीमा पर बिन्दु 'ङ' पर मिलती है।
- ङ-च रेखा ग्राम मकरधोकरा से गुजरती हुई ग्राम मकरधोकरा तथा ग्राम दहेगांव की सम्मिलित ग्राम सीमा पर बिन्दु 'च' पर मिलती है।
- च-छ रेखा ग्राम दहेगांव से गुजरती हुई ग्राम दहेगांव तथा ग्राम सायकी की सम्मिलित ग्राम सीमा पर बिन्दु 'छ' पर मिलती है।
- छ-क रेखा ग्राम सायकी से गुजरती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/4/2009-पी.आर.आई.डब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

New Delhi, the 15th July, 2009

S.O. 1997.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the Schedule hereto annexed ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing number : C-1 (E) III/FUR/782-0409 dated the 18th April, 2009 of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) or at the office of the Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Place, Kanke Road, Ranchi or at the office of the Coal Controller, 1, Council House Street, Kolkata or at the office of the District Collector, Nagpur (Maharashtra).

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the office of the General Manager, Western Coalfields Limited, Umrer Area, Post : Umrer Project, District Umrer, Tahsil Nagpur -441 204 (MS) of Chief Mining Engineer (L/R), Western

Coalfields Limited, Revenue Department, Coal Estate, Civil Lines, Nagpur 440 001 (Maharashtra) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Dinesh Opencast (Makardhokra III) Mine Umrer Area District- Nagpur (Maharashtra)

(Plan bearing number C-1 (E) III/FUR/782-0409 dated 18th April, 2009)

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area in Hectares	Remarks
1.	Makardhokra	17	Umrer	Nagpur	647.90	Part
2.	Sukali	16	Umrer	Nagpur	457.12	Part
3.	Bopeshwar	17	Umrer	Nagpur	213.17	Part
4.	Hewati	18	Umrer	Nagpur	211.72	Part
5.	Katara	22	Umrer	Nagpur	46.88	Part
6.	Dahegaon	16	Umrer	Nagpur	37.35	Part
7.	Sayaki	16	Umrer	Nagpur	10.52	Part

Total Area:- 1624.66 hectares(approximately)
or 4014.54 acres(approximately)

BOUNDARY DESCRIPTION :-

- A-B Line starts from point 'A' on common village boundary at villages Sayaki and Sukali and passes through the village Sukali and meets at point "B" on the common village boundary of villages Sukali and Hewati.
- B-C Line passes through village Hewati and meets at Point 'C' on common village boundary of villages Hewati and Bopeshwar.
- C-D Line passes through village Bopeshwar and meets at point 'D' on the common village boundary at villages Bopeshwar and Katara.
- D-E Line passes through village Katara and crosses common village boundary of villages Katara and Bopeshwar then line passes through village Bopeshwar and meets at the Point 'E' on common village boundary of villages Bopeshwar and Makardhokra.
- E-F Line passes through village Makardhokra and meets at Point 'F' on common village boundary of villages Makardhokra and Dahegaon.
- F-G Line passes through village Dahegaon and meets at point 'G' on common village boundary of villages Dahegaon and Sayaki.
- G-A Line passes through village Sayaki and meets at starting point "A".

[F. No. 43015/4/2009-PRIW-I]
M. SHAHABUDEEN, Under Secy.

नई दिल्ली, 16 जुलाई, 2009

का.आ. 1998.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपबद्ध अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है ;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ।

इस अधिसूचना के अन्तर्गत आनेवाले रेखांक सं. ईसीएल/अरजेएमएल/नौक/नोटि/10 तारीख 30-11-2008, का निरीक्षण उपायुक्त, जिला गोड्डा (झारखण्ड) के कार्यालय में या कोयला नियंत्रक, 1 कर्मासिल हाऊस स्ट्रीट, कोलकाता 700001 के कार्यालय में या निदेशक तकनीकी (प्रचालन, ईस्टर्न कोलफील्ड्स लिमिटेड, सांकेटोरिया, डक्कन-विश्वेन्द्र प्रसाद बर्माकान (प. बंगाल) पिन कोड -713333 के कार्यालय में किया जा सकता ।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे (90) दिन के भीतर, निदेशक तकनीकी (प्रचालन), ईस्टर्न कोलफील्ड्स लिमिटेड, सांकटोरिया, डाकघर-दिसेरागढ़, जिला बर्दवान (प. बंगाल) पिन कोड - 713333 को भेजेंगे।

अनुसूची

ललमटिया कोयला खनन ब्लॉक

जिला-गोड्डा, झारखंड

रेखांक संख्या-ईसीएल/आरजेएलएम/मौजा/नोटि/10 तारीख 30-11-2008

क्रम सं.	मौजा/ग्राम	थाना	ग्राम सं.	जिला	हेक्टर में क्षेत्र लगभग	एकड़ में क्षेत्र लगभग	टिप्पण
1.	छोटा भोड़ा	ललमटिया	17	गोड्डा	20.380	50.360	भाग
					कुल क्षेत्रफल 20.380	50.360	

कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 के अधीन अधिसूचित किए जाने वाले क्षेत्र का सीमा विवरण

सीमा विवरण (क1 से क6)

- क1-क2 रेखा ललमटिया थाना, जिला - गोड्डा (झारखण्ड) के छोटा भोड़ा सं. 17, बड़ा भोड़ा सं. 18 और पहाड़पुर सं. 32 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु क 1 से प्रारंभ होकर छोटा भोड़ा सं. 17 और बड़ा भोड़ा सं. 18 की सम्मिलित सीमा से होती हुई मौजा छोटा भोड़ा सं. 17 तथा बड़ा भोड़ा सं. 18 के त्रि-संधि स्तंभ पर स्थित बिन्दु क 2 पर मिलती है।
- क2-क3 रेखा मौजा - छोटा भोड़ा सं. 17 और बड़ा भोड़ा सं. 18 की सम्मिलित सीमा पर स्थित बिन्दु क-2 से प्रारंभ होकर छोटा भोड़ा सं. 17 के प्लॉट सं. 14 की उत्तरी सीमा पर स्थित बिन्दु क-3 पर मिलती है।
- क3 -क4 रेखा छोटा भोड़ा सं. 17 के प्लॉट सं. 14 की उत्तरी सीमा पर स्थित बिन्दु क-3 से प्रारंभ होकर छोटा भोड़ा सं. 17 प्लॉट सं. 16, 15, 20, 24, 44, 42, 183, 79, की उत्तरी सीमा से होती हुई जाती है और प्लॉट सं. 33, 35 की उत्तरी पश्चिमी सीमा से होते हुए रोड सं. 161 को पार करती है तथा पुनः प्लॉट सं. 107, 108 की पश्चिमी सीमा और प्लॉट सं. 18 की उत्तरी सीमा, प्लॉट सं. 109 की पश्चिमी सीमा, प्लॉट सं. 109, 178, 102, 155, 156, 160 की उत्तरी सीमा से होते हुए छोटा भोड़ा सं. 17 तथा बड़ा भोड़ा सं. 18 की सम्मिलित सीमा पर स्थित बिन्दु क-4 पर मिलती है।
- क4 - क5 रेखा छोटा भोड़ा सं. 17 और बड़ा भोड़ा सं. 18 की सम्मिलित सीमा पर स्थित बिन्दु क 4 से प्रारंभ होकर, छोटा भोड़ा सं. 17 तथा बड़ा भोड़ा की सम्मिलित सीमा भोड़ा से गुजरते हुए छोटा भोड़ा सं. 17, बड़ा भोड़ा सं. 18 और केशगडिया सं. 20 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु क 5 पर मिलती है।
- क5 -क6 रेखा छोटा भोड़ा सं. 17, बड़ा भोड़ा सं. 18 और केशगडिया सं. 20 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु क 5 से प्रारंभ होकर छोटा भोड़ा सं. 17 तथा केशगडिया सं. 20 की साझा सीमा से होते हुए छोटा भोड़ा सं. 17, केशगडिया सं. 20 पहाड़पुर सं. 32 के त्रि-संधि स्तंभ पर स्थित बिन्दु क 6 पर मिलती है।
- क6 - क1 रेखा छोटा भोड़ा सं. 17, केशगडिया सं. 20, पहाड़पुर सं. 32 के त्रि-संधि स्तंभ पर स्थित बिन्दु क 6 से होकर छोटा भोड़ा सं. 17 तथा पहाड़पुर सं. 32 की सम्मिलित सीमा से होते हुए छोटा भोड़ा सं. 17, पहाड़पुर सं. 32 तथा छोटा भोड़ा सं. 18 के त्रि-संधि स्तंभ पर स्थित बिन्दु क 1 पर मिलती है।

[सं. 43015/2/2009-पी आर आई डब्ल्यू-1]

एम. शाहबुद्दीन, अवर सचिव

New Delhi, the 16th July, 2009

S.O. 1998.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed.

Now, therefore in exercise of the powers by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisitions and Development) Act 1957, (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. ECL/RJML/MOUZA/NOTI/10 dated 30-11-2008 of the areas covered by this notification may be inspected in the office of the Deputy Commissioner, District Godda (Jharkhand), or in the office of the Coal

controller, 1 Council House Street, Kolkata - 700 001 or in the office of the Director Technical (Operation) Eastern Coalfields Limited, Sanctoria, P. O. Dishergarh, Dist.- Burdwan (West Bengal), Pin Code- 713 333.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred in sub-section (7) of Section 13 of the said Act to the Director Technical (Operation) Eastern Coalfields Limited, Sanctoria, P. O. Dishergarh, Dist.- Burdwan (West Bengal), Pin Code- 713 333; within ninety (90) days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Lalmatia Coal Mining Block
District Godda, Jharkhand

Plan number ECL/RJML/MOUZA/NOTI/10 dated 30-11-2008

Sl No.	Mouza/ Village	Thana	Village Number	District	Area in Hectares approximately	Area in Acres approximately	Remarks
1.	Chota Bhorai	Lalmatia	17	Godda	20.360	50.360	Part
			Total (Area)		20.360	50.360	

Boundary Description of the area to be notified under Section 4 (1) of the CBA (A&D) Act, 1957)

Boundary Description (A1 to A6)

- A1-A2** Line starts from point A1 at tri-junction pillar of Chhota Bhorai No.17, Bara Bhorai No. 18 and Paharpur No. 32 of PS Lalmatia Dist. Godda (Jharkhand) and passes through the common boundary of Chhota Bhorai No. 17 and Bara Bhorai No. 18 and meets at the point A2 on Common boundary of Mouza Chhota Bhorai No. 17 and Bara Bhorai No.18.
- A2-A3** Line starts from point A2 on the common boundary of Mouza Chhota Bhorai No. 17 and passes through the western boundary of plot No. 14 and meets at point A3 on northern boundary of Plot No.14 Chhota Bhorai No. 17.
- A3-A4** Line starts from point A3 on northern boundary of Plot No.14 Chhota Bhorai No. 17. and passes through the northern boundary of plot No. 16, 15, 20, 24, 44, 42, 41, 163, 79 western and northern boundary of Plot No. 33, 35 crosses the road on plot 161, again passes through western boundary of plot No. 107, 108 northern boundary of Plot No. 108; western boundary of plot No.109; northern boundary of Plot No.109, 178, 102, 155, 156, 160 and meets at the point A4 on Common boundary of Chhota Bhorai No. 17 and Bara Bhorai No.18.
- A4-A5** Line starts from point A4 on the common boundary of Chhota Bhorai No. 17 and Bara Bhorai No.18.and passes through the common mouza boundary of Bara Bhorai No. 18 Chhota Bhorai No. 17 meets at point A5 on tri-junction pillar of Chhota Bhorai No.17, Bara Bhorai No. 18 and Keshgaria No.20.
- A5-A6** Line starts from point A5 at tri-junction pillar of Chhota Bhorai No.17, Bara Bhorai No. 18 and Keshgaria No. 20 passes through the common mouza boundary of Chhota Bhorai No. 17 and Keshgaria No. 20; and meets at point A6 on tri-junction pillar of Chhota Bhorai No. 17, Paharpur No. 32 and Keshgaria No. 20.
- A6-A1** Line starts from point A6 on the tri-junction pillar of Mouza Chhota Bhorai No.17, Paharpur No. 32 and Keshgaria No. 20 passes through the common Mouza boundary of Chhota Bhorai No. 17 and Paharpur No. 32 meets at the point A1 on tri-junction pillar of Mouza Chhota Bhorai No. 17, Bara Bhorai No. 18 and Paharpur No. 32.

[No.43015/2/2009-PRIW-I]

M. SHAHABUDEEN, Under Secy.

नई दिल्ली, 16 जुलाई, 2009

का. आ. 1999.—केन्द्रीय सरकार को प्रतीत होता है कि इससे उपबन्ध अनुसूची में उल्लिखित परिसरों की भूमि में कोयला अधिप्राप्त किये जाने की संभावना है;

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में कोयले का पूर्वावधान करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले खाले रेखांक सं.: राजस्व/59/09 तारीख 25 अप्रैल, 2009 का निरीक्षण मुख्य महा प्रबन्धक, दुधीचुआ परियोजना पोस्ट: खड़िया जिला: सोनभद्र (उत्तर प्रदेश) के कार्यालय में या मुख्य महाप्रबन्धक (विन्दोहर डिब्रीबन), सेंट्रल खान प्लानिंग और डिजाइन इन्स्टिट्यूट, गोंडवाना प्लेस, कांके रोड, रांची या कोयला नियंत्रक 1, कार्गिल हाऊस स्ट्रीट, कोलकाता के कार्यालय में या कलेक्टर सिंगरौली (मध्य प्रदेश) के कार्यालय में या नार्दन कोलफील्डस लिमिटेड, सिंगरौली (मध्य प्रदेश) के मुख्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चाटों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिनों के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) नार्दन कोलफील्डस लिमिटेड, सिंगरौली को भेजेगें।

अनुसूची

दुधीचुआ ब्लाक विस्तार II (कोल माईनिंग ब्लाक) नार्दन कोलफील्डस लिमिटेड, सिंगरौली, जिला सिंगरौली (मध्य प्रदेश)

क्रम सं.	ग्राम	थाना सं.	ग्राम सं.	जिला	क्षेत्रफल हेक्टेयर में	क्षेत्रफल एकड़ में	टिप्पण
1.	मेदौली	मोरवा	131	सिंगरौली	87.001	214.98	भाग
2.	पंजरेह	मोरवा	140	सिंगरौली	81.999	202.62	भाग
3.	चटका	मोरवा	135	सिंगरौली	35.006	86.50	भाग
4.	झिगुरदा	मोरवा	137	सिंगरौली	2.994	7.40	भाग
योग					207.00	511.50	
					लगभग	लगभग	

सीमा वर्णन

- क-ख रेखा बिन्दु "क" से आरम्भ होती है, और ग्राम मेदौली से होकर जाती है तथा बिन्दु "ख" पर मिलती है।
- ख-ग रेखा बिन्दु "ख" से आरम्भ होती है, और ग्राम मेदौली से होकर जाती है तथा बिन्दु "ग" पर मिलती है।
- ग-घ रेखा बिन्दु "ग" से आरम्भ होती है, और ग्राम मेदौली से होकर जाती है तथा ग्राम मेदौली और ग्राम चटका की सम्मिलित सीमा के बिन्दु "घ" पर मिलती है।
- घ-ङ रेखा बिन्दु "घ" से आरम्भ होती है, तथा ग्राम मेदौली और ग्राम चटका की सम्मिलित सीमा, तथा ग्राम करवारी और ग्राम चटका की सम्मिलित सीमा तथा ग्राम करवारी और ग्राम झिगुरदा की सम्मिलित सीमा से होकर जाती है और बिन्दु "ङ" पर मिलती है।
- ङ-च रेखा बिन्दु "ङ" से आरम्भ होती है, तथा ग्राम झिगुरदा और ग्राम चटका से होकर जाती है और ग्राम चटका के बिन्दु "च" पर मिलती है।
- च-छ रेखा बिन्दु "च" से आरम्भ होती है, तथा ग्राम चटका और ग्राम पंजरेह से होकर जाती है तथा ग्राम पंजरेह के बिन्दु "छ" पर मिलती है।
- छ-ज रेखा बिन्दु "छ" से आरम्भ होती है तथा ग्राम पंजरेह से होकर जाती है तथा बिन्दु "ज" पर मिलती है।
- ज-क रेखा बिन्दु "ज" से आरम्भ होती है तथा ग्राम पंजरेह और ग्राम मेदौली से होकर जाती है और ग्राम मेदौली के आरम्भिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/15/2009-प्रोअरआईडब्ल्यू-1]

एम. राहनुद्दीन, अवर सचिव

New Delhi, the 16th July, 2009

S.O. 1999.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the Schedule hereto annexed.

Now, therefore in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act 1957, (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing number Rev./59/09 dated the 25th April, 2009 of the area covered by this notification can be inspected in the office of the Chief General Manager, Dudhichua Project, Post: Khadia Dist: Sonebhadra (UP) or at the office of the Chief General Manager (Exploration Division), Central Mine Planning & Design Institute, Godwana Place, Kanke Road Ranchi or at the office of the Coal Controller, 1 Council House Street, Kolkata or at the office of the District Collector, Singrauli (Madhya Pradesh) or at the Head quarters of M/s. Northern Coalfields Limited, Singrauli (Madhya Pradesh).

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred in sub-section (7) of section 13 of the said Act to the Officer - in Charge/Head of Department (Revenue), Northern Coalfields Limited, Singrauli within ninety days from the date of the publication of this notification in the Official Gazette.

SCHEDULE

Dudhichua Block Extn.-II (Coal Mining Block)
Northern Coalfields Limited, Singrauli
District Singrauli (Madhya Pradesh)

(Plan bearing number Rev./59/09 dated the 25th April, 2009)

Sl. No.	Mouza/Village	Thana	Village Number	District	Area in hectares	Area in acres	Remarks
1.	Medhauli	Morwa	131	Singrauli	87.001	214.98	Part
2.	Panjreh	Morwa	140	Singrauli	81.999	202.62	Part
3.	Chatka	Morwa	135	Singrauli	35.006	86.50	Part
4.	Jhingurda	Morwa	137	Singrauli	2.994	7.40	Part
Total Area					207.00 approximately	511.50 approximately	

Boundary Description:

- A-B The Line starts from point "A" and passes through village Medhauli and meets at point "B".
- B-C Line starts from point "B" and passes through village Medhauli and meets at point "C".
- C-D Line starts from point "C" and passes through village Medhauli and meets at common village boundary of Medhauli and Chatka at point "D".
- D-E Line starts from point "D" and passes through common village boundary of Medhauli and Chatka, common village boundary of Korwari & Chatka and meets on common village boundary of Korwari and Jhingurda at point "E".
- E-F Line starts from point "E" and passes through village Jhingurda and Chatka and meets village Chatka at point "F".
- F-G Line starts from point "F" and passes through village Chatka and Panjreh and meets village Panjreh at point "G".
- G-H Line starts from point "G" and passes through village Panjreh and meets at point "H".
- H-A Line starts from point "H" and passes through village Panjreh and Medhauli and meets at starting point "A".

[File No. 43015/15/2009-PRIW-I]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 16 जुलाई, 2009

का. आ. 2000.—सार्वजनिक परिसर (अधिकृत कम्पाउन्सों की देखरेख) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्राधिकृत शक्तियों का प्रयोग तथा भारत के गजट में दिनांक 28-12-2007 की का. आ. संख्या 18 के अंतर्गत प्रकाशित पेट्रोलियम और प्राकृतिक

गैस मंत्रालय, भारत सरकार की दिनांक 28 दिसम्बर 2007 की अधिसूचना संख्या 25015/1/07-ओ आर. II में आंशिक संशोधन करते हुए केन्द्र सरकार इस अधिसूचना के साथ संलग्न सारणी में निम्नलिखित संशोधन करती है जो इस प्रकार है:

सारणी

क्रम सं.	यूनिट/कार्यालय का नाम	अधिकारी का पद	सार्वजनिक परिसरों की श्रेणियों तथा स्थानीय क्षेत्राधिकार की क्षेत्र सीमाएं
क्रम सं. 1	गुजरात रिफाइनरी	प्रबंधक (प्रशा. व कल्याण) इंडियन ऑयल कॉर्पो. लि. गुजरात रिफाइनरी, डाकघर: जवाहर नगर, जिला वडोदरा, गुजरात - 391320	गुजरात राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर

इसके स्थान पर निम्नलिखित को रखा जाए:

1.	गुजरात रिफाइनरी	वरिष्ठ प्रबंधक (प्रशा. व कल्याण) इंडियन ऑयल कॉर्पो. लि. गुजरात रिफाइनरी, डाकघर: जवाहर नगर, जिला वडोदरा, गुजरात - 391320	गुजरात राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
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[फा. सं. आर-25015/1/2007-ओ आर-1]

बी. के. दत्ता, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 16th July, 2009

S.O. 2000.— In exercise of the powers conferred by Section 3 of the Public Premises (Eviction Un-authorized Occupants) Act 1971 (40 of 1971) and in partial modification of the notification of Government of India in the Ministry of Petroleum & Natural Gas No. R- 25015/1/2007-OR-II dated 28-12-2007 published vide S.O. No. 18 dated 28-12-2007 in the Gazette of India, the Central Government makes the following amendments in the table annexed to this notification as under namely:

TABLE

SL. No.	Name of the Unit/Office	Designation of the officer	Categories of Public premises and local limits of jurisdiction
1.	Gujarat Refinery	Manager (Administration & Welfare), Indian Oil Corporation Ltd., Gujarat Refinery, PO Jawahar Nagar, Distt Vadodara, Gujarat- 391320	Public Premises under the administrative control of Indian Oil Corporation Ltd., within the State of Gujarat

Shall be substituted as under:

SL. No.	Name of the Unit/Office	Designation of the officer	Categories of Public premises and local limits of jurisdiction
1.	Gujarat Refinery	Sr. Manager (Administration and Welfare); Indian Oil Corporation Ltd., Gujarat Refinery, PO Jawahar Nagar, Distt. Vadodara, Gujarat- 391320	Public Premises under the administrative control of Indian Oil Corporation Ltd., within the State of Gujarat

[File No. R-25015/1/2007-OR-I]

B. K. DATTA, Under Secy.

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2001.—तेल उद्योग (विकास) अधिनियम 1974 (1974 का 47) की धारा (3) की उपधारा (3) के खंड (ग) द्वारा प्रदत्त की गई शक्तियों का प्रयोग करते हुए केंद्रीय सरकार एनयूडीए निम्नलिखित अधिकारियों को तेल उद्योग विकास बोर्ड के सदस्य के रूप में, उनके नाम के सामने दर्शाई गई अवधि के लिए, क उनसे आदेश जारी होने तक या सेवानिवृत्ति तक, जो भी पहले हो, पुनर्नियुक्त करती है:-

	से	तक
1. श्री आर. एस. शर्मा, अध्यक्ष एवं प्रबंध निदेशक, तेल एवं प्राकृतिक गैस कारपोरेशन लिमिटेड	4-7-2009	3-7-2011
2. श्री अशोक सिन्हा, अध्यक्ष एवं प्रबंध निदेशक, भारत पेट्रोलियम कारपोरेशन लिमिटेड	19-8-2009	18-8-2011

[सं. जी-35012/2/91-वित्त-II]

एस. सी. दास, अवर सचिव

New Delhi, the 17th July, 2009

S.O. 2001.—In exercise of the powers conferred by Clause (e) Sub-section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby re-appoints the following officers as Members of the Oil Industry Development Board for the period shown against their names or until further orders or retirement, whichever is earlier:

	From	To
1. Shri. R. S. Sharma, Chairman & Managing Director, Oil & Natural Gas Corp. Ltd.	4-7-2009	3-7-2011
2. Shri. Ashok Sinha, Chairman & Managing Director, Bharat Petroleum Corp. Ltd.	19-8-2009	18-8-2011

[No. G-35012/2/91-Fin-II]

S. C. DAS, Under Secy.

नई दिल्ली, 22 जुलाई, 2009

का. आ. 2002.—भारत सरकार ने पेट्रोलियम और खनिज पदार्थों (भूमि में उपयोग के अधिकार का अर्थ) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 503 तारीख 8-3-2008 द्वारा श्री ज्ञान प्रकाश अग्रवली और निराला निराला को उक्त बोर्ड के अध्यक्ष एवं प्रबंध निदेशक के रूप में सेवानिवृत्ति तक, जो भी पहले हो, पुनर्नियुक्त किया था।

और उक्त श्री ज्ञान प्रकाश अग्रवली 31 जुलाई 2009 को सेवानिवृत्त हो रहे हैं और श्री भगवत सागर ओझा, विशेष भूमि अध्यापि अधिकारी को उनके पद पर नियुक्त किया गया है।

अतः अब, भारत सरकार उक्त अधिनियम की धारा 2 के खंड (क) के अनुसरण में और भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 503 तारीख 8-3-2008 के अधिनियम करते हुए, नीचे दी गई अनुसूची के स्तंभ (1) में वर्णित व्यक्ति

को उक्त मैसर्स गेल (इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिए निम्नलिखित अनुसूची के खान्द (2) में वर्णित क्षेत्र में उक्त अभियन्ता के अधीन सक्षम प्राधिकारी के कर्तव्यों का पालन करने के लिए नियुक्त करती है।

अनुसूची

व्यक्ति का नाम और पता	अभिकारिता का क्षेत्र
(1)	(2)
श्री भगवत सागर ओझा, विशेष भूमि अध्याप्ति अधिकारी, मैसर्स गेल (इण्डिया) लिमिटेड में प्रतिनियुक्ति पर, गेल (इण्डिया) लिमिटेड, जी.टी.आई., पी.ए.आर.सी. बिल्डिंग, प्लॉट नं. 24, सेक्टर-16 ए, नोएडा-201301, जिला गौतमबुद्ध नगर, उत्तर प्रदेश	सम्पूर्ण उत्तर प्रदेश राज्य

[का. सं. एल-14014/2/08-जी.पी.]

कै. के. शर्मा, अवर सचिव

New Delhi, the 22nd July, 2009

S.O. 2002.—Whereas, in pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Government of India vide Notification in the Ministry of Petroleum and Natural Gas S.O. 503 dated 8th March, 2008 appointed Shri Gyan Prakash Awasthi, Additional District Magistrate to perform the functions of the Competent Authority under the said Act for laying of pipeline by M/s. GAIL (India) Ltd. in the State of Uttar Pradesh.

And, whereas, Shri Gyan Prakash Awasthi is superannuating on 31st July, 2009 and Shri Bhagwat Sagar Ojha has been posted as his incumbent;

Now, therefore, in pursuance of clause (a) of Section 2 of the said Act and in supersession of the notification of the Government of India, Ministry of Petroleum & Natural Gas vide S.O. 503 dated 8th March, 2008, Government of India hereby authorizes the person mentioned in column (1) of the schedule given below to perform the functions of the Competent Authority under the said Act for laying pipelines by the said M/s. GAIL (India) Limited in the area mentioned in column (2) of the said schedule.

SCHEDULE

Name and Address of the person	Area of Jurisdiction
(1)	(2)
Shri Bhagwat Sagar Ojha, Special Land Acquisition Officer, On deputation to M/s. GAIL (India) Limited, G.T.I., PARC building, Plot No. 24, Sector-16A, NOIDA-201301, Distt. Gautam Budha Nagar, Uttar Pradesh.	Whole State of Uttar Pradesh

[File No. L-14014/2/08-G.P.]

K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 23 जून, 2009

का.आ. 2003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. टी.आई. एस.सी.ओ. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 1, धनबाद के पंचाट (संदर्भ संख्या 150/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-06-2009 को प्राप्त हुआ था।

[सं. एल-20012/42/2001-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd June, 2009

S.O. 2003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.150/2001) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. TISCO, and their workmen, which was received by the Central Government on 23-06-2009.

[No. L-20012/42/2001-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.-1, DHANBAD.**

In the matter of a reference U/s. 10(1) (d) (2A) of I.D. Act.

Reference No. 150 of 2001

Parties : Employers in relation to the management of Sijua Colliery of M/s. TISCO.

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate

For the Workmen : Shri N. G. Arun, Authorised Representative

State : Jharkhand

Industry : Coal

AWARD

Dated, the 29th May, 2009

By Order No. L-20012/42/2001-IR (C-I) dated 7-6-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. TISCO, Sijua Colliery in not providing employment to the dependent of Shri Bahadur Mahato, who died of chest Cancer on 28-6-94 while in service, in accordance with the existing company policy, is justified? If not, to what relief the workman entitled?"

2. The workman has filed written statement stating that the deceased employee, Bahadur Mahato, had been appointed in the service of the company on 10-10-1977. He had been working as Line Mazdoor at Sijua Colliery of M/s. TISCO. The deceased employee had been suffering from chest cancer since 1990 and he remained under regular treatment of Tata's Central Hospital, Jamshedpur till his last breathing. On the basis of wrong diagnosis of disease the management forced him to join the duty and to perform his original job, resulting the disease aggravated and turned to very serious stage. After his joining in duty due to pressure of work again he became seriously ill and caused internal haemorrhage. In last he was first admitted at Tata's Central Hospital, Jamadoba and later on referred to Tata Main Hospital, Jamshedpur for better treatment from specialised Doctors where he had been declared incurable. Ultimately when disease turned to very severe state he was admitted at Tata's Central Hospital, Jamadoba on 27-6-94 and expired on 28-6-94. The concerned workman expired after completion of 16 years service. As per procedure of employment in vogue in M/s. Tata group of collieries, if a workman has been suffering from certain listed disease including Cancer and has put in minimum 5 years of service and is below 55 years of age their dependent is to be given employment. While late Bahadur Mahato was suffering from chest cancer, her wife Smt. Sanjoti Devi was absorbed as a temporary worker in Category-I and after 18 months she was stopped from work. It shows that there was scope to absorb the female dependent yet on the pretext on non-availability of job for female worker the management denied to offer employment. The dependent son of deceased employee, Durga Charan Mahato had also approached to the management to offer him employment as they had earlier denied to absorb his mother on the pretext on non-availability of the job for female. The management again not acceded to the request of the dependent son and did not take heed of it. Denial to provide employment to the dependent son of deceased employee violates the adopted principle/norms of the company. The deemed of the dependent son of late Bahadur Mahto is legal and justified. A dispute was raised before the A.L.C. (C), Dhanbad which ended in failure due to adamant attitude of the management. Thereafter the matter has been referred to this Hon'ble Tribunal by the Ministry of Labour for adjudication. It has been prayed that this Hon'ble Tribunal be graciously pleased to pass in award by directing the management to provide employment to the dependent son of late Bahadur Mahto.

3. The Management has filed written statement stating Late Bahadur Mahto, Ex-Line Mazdoor was an employee of Sijua Colliery and died on 28-6-1994 after putting approximately 16½ years of service. It has been stated that as per the employment procedure in vogue at the relevant time one male dependent of an employee suffering from certain listed disease including Cancer used to be offered employment provided the guardian employee had put in minimum 5 years of service and was below 55 years of age and wished to resign from Company's service on medical ground or was discharged on medical grounds. Since Late Bahadur Mahto neither resigned from Company's service nor he was discharged on medical grounds, but he expired while in service, the dependent was not entitled to employment as per the above procedure. The management used to provide employment to the dependent of such employee purely on compassionate ground. The whole object of granting compassionate employment was to enable the employees concerned to tide over the sudden crises. The compassionate employment can not be claimed and offered whatever the lapses of time and after the crisis is over. In the instant case the workman concerned expired on 28-6-94 and after the lapse of over 5 years the demand of the dependent employment is being raised by the Union as a matter of right. It has been prayed that an award be passed holding that the action of the management of Sijua colliery in not providing employment to the dependent of Late Bahadur Mahto is legal and justified and further be pleased to hold that the person concerned is not entitled for any relief.

4. the management has produced MW-1-Dinesh Kumar Sharma, who has proved Exts. M-1 to M-8. During cross-examination he has proved Exts. W-1 and W-2.

The concerned workman has produce WW-1- Sanjati Devi, who has proved Exts. W-3 to W-3/3 and Exts. W-4 to W-4/2.

5. In the above case the deceased, Bahadur Mahto had been appointed on 10-10-1977. He had been suffering from chest cancer since 1990 and he had remained under regular treatment of Tata's Central Hospital, Jamadoba and later on he was referred to Tata Main Hospital, Jamshedpur for better treatment where he had been declared incurable. Ultimately he became bed ridden and when disease turned to very severe stage he was admitted at Tata's Central Hospital, Jamadoba on 27-6-94 and expired on 28-6-94 (Exts. W-4 to W-4/2).

6. The concerned workman's wife, Smt. Sanjoti Devi, was appointed on 23-2-1991 and it has been said that she will be paid wages as per NCWA-IV intimating that her appointment in Category-I Kamin will stand terminated, the date on which her husband, Bahadur Mahto will be declared fit for his original job by the Medical Board or after 18 months whichever is earlier. Smt. Sanjoti Devi had continued work upto June 1995 i.e. more than 4 years

(Exts. W-3 to W-3/3 and W-1 series). The documents authenticate that the day Bahadur Mahto expired his wife Sanjoti Devi was stopped from duty that is on 28-6-1994. The letter dated 4-4-98 (Exts. W-2 & W-5) proves that as Sanjoti Devi is a female worker so he was stopped from work. The management of M/s. Tisco was exempted from NCWA for the purpose of social security as they assured before the highest body of coal wage negotiation committee i.e. JBCCI that they shall provide better social security other than NCWA. The management's witness admitted the same in cross-examination.

It is pertinent to mention that in NCWA it is agreed that if the worker are suffering from cancer or died during his tenure of service, his dependent shall be provided employment.

7. In the written statement of the management in para 6 it has been stated that the management used to provide employment to the dependent of such employee purely on compassionate ground. The whole object of granting compassionate employment was to enable the employees concerned to tide over the sudden crises. After persual, it is revealed that the company provides employment to the dependent of the deceased employee as because after death, the family on the ex-employee use to suffer for bread and livelihood and to tide over the crisis, employment is provided. In this case the company has acted against their own statement by snatching livelihood which they earlier provided employment to Smt. Sanjoti Devi wife of Bahadur Mahto to meet and tide over the crisis which was arose in their family after being seriously ill of employee Bahadur Mahto and after due to bedridden for chest cancer.

The management's counsel argued that as Late Bahadur Mahto had not wished to resign so dependent was not provided employment.

In this respect it has been argued on behalf of the workman that since the wife of Late Bahadur Mahto continued in employment for more than 4 years so her entitlement can not be terminated as soon as Bahadur Mahto died because it is against the natural justice. She was given employment to tide over the sudden crisis as Bahadur Mahto was suffering from cancer due to this his family was facing starvation. Ext. W-2 is a reply of the management to Shri G. R. Khan, secretary, RCMS. In said reply it is proved that the workman was suffering from cancer and died. His wife Sanjoti Devi was not further given employment as because she is a female worker. Though earlier she had worked more than 4 years when her husband was bedridden and was in the roll of the company. Ext. W-1 series are the pay slips of Smt. Sanjoti Devi. These pay slips authenticate that she had worked from May, 1991 to June, 1995. Whereas the management says that if workers are unable to work their dependents use to get employment for 18 months, not more than that. In this case she had worked more than 4 years as because her husband was

declared unfit due to cancer and when she became entitled for permanency she was stopped from work as because she is a female worker. Ext. W-2 proves the same.

WW-1-Smt. Sanjoti Devi, has stated in examination-in-chief that the management has provided employment to Ganga Mani wife of Gopal, Manju Devi W/o Goverdhan Mahto in same and similar nature of case but her case was not considered on the same footing discriminating with others. This statement was not denied by the management when Smt. Sanjoti Devi was not provided employment she had applied for her son, Sri Durga Mahto but the management has also not considered his case (Ext. M-6).

8. Learned representative of the workman argued that in same and similar nature of case Hon'ble Tribunal No. 2 at Dhanbad has passed an award in favour of the workman wherein the court held that the dependent employment in violation of NCWA-II is not justified. It has been argued by the workman that the management's witness during cross-examination admitted that NCWA is applicable in their company. The management has not produced any employment procedure agreed by the union and the management during the period of 1994. Moreover, management's witness MW-1-Dinesh Kumar Sharma, during cross-examination admitted that NCWA is applicable in the company. Even though Ext. M-5 proves that Smt. Sanjoti Devi has been stopped from work, it has been discriminated between the male and female although earlier she has worked more than 4 years, which is violative of Article 39 (4) of the Indian Constitution.

9. MW-1, management's witness, Dinesh Kumar Sharma, has stated in cross-examination at page 2 that NCWA is applicable in the company. The social security clause of NCWA is applicable in their colliery other than the employment of dependent. JBCCI has given exemption in the matter of employment deceased workman on the ground that employment procedure of management of the TISCO is better than the provision of NCWA. The concerned workman was suffering from cancer. He was under treatment in the hospital of the company continuously. He has stated—"I do not know if she was given temporary employment and on death of her husband she was stopped from duty. I do not know that the widow of concerned workman had addressed an application to the Vice Chairman of the company which was replied and stated that since she is no male workman she will not be given employment. In cross-examination at page 3 the witness has admitted that the pay slips of Sanjoti, marked Ext W-1 in a bunch. It may be that she might have worked for 18 months as temporary worker. Ext M-1 shows that the husband of the concerned workman, Bahadur Mahto died due to cancer on July, 1994. As per Ext. M-2 it shows that there was agreement/settlement. As per page 2 para 1 the dependent of the employee should be given employment who has completed 15 years of service. The present workman has served more than 16 years service. It has

been mentioned in this para that if any workman who has put in 5 years of service and is below 55 years of age his dependent would be provided employment. By this clause also the present workman is entitled for employment. The husband of concerned workman served for more than 16 years and below 55 years of age and death caused due to cancer. As per document Ext. M-5 shows that Bahadur Mahto has served for more than 16 years of service. As per Ext. W-3 the employment was given to the concerned workman on 3-6-94 for 18 months on compassionate ground and wages were paid as per NCWA-IV. She has served for more than 4 years. Ext. W-3/1 is a letter which has been given to be concerned workman by the Sr. Manager, Sijua Colliery for giving job.

10. In view of the discussions made above, I come to the conclusions that the dependent son of Late Bahadur Mahto is entitled for employment.

11. Accordingly, I render the following award—The action of the management of M/s. TISCO, Sijua Colliery in not providing employment to the dependent of Sri Bahadur Mahto, who died of chest cancer on 28-6-94 while in service, in accordance with the existing company policy, is not justified. Therefore, the dependent son of Late Bahadur Mahto, Durga Charan Mahto, is entitled for employment. The management is directed to implement the Award within 30 days from the date of publication of the award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2009

का.अ. 2004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार ये बी.सी.सी.एल. के प्रबंधकों के संघर्ष विवेककों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय संख्या-2, धनबाद के पंचाट (संदर्भ संख्या 17/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-6-2009 को प्राप्त हुआ था।

[सं. एल-20012/439/1995-आईआर (सी-1)]

स्नेह लता जावास, डेस्क अधिकारी

New Delhi, the 23rd June, 2009

S.O. 2004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.17/1997) of the Central Government Industrial Tribunal/Labour Court, No. 2 Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/S. BCCL, and their workmen, which was received by the Central Government on 23-6-2009.

[No. L-20012/439/95-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.-2, AT DHANBAD****Present : Shri H. M. Singh, Presiding Officer**In the matter of an Industrial Dipute Under
Section 10(1)(d) of the I.D. Act, 1947**Reference No. 17 of 1997****Parties : Employers in relation to the management of
Sijua Colliery of M/s. BCCL and their workmen.****APPEARANCES**On behalf of the workmen : Mr. S. C. Gaur
Advocate.On behalf of the employers : Mr. D. K. Verma
Advocate.

State : Jharkhand. Industry : Coal.

Dated, Dhanbad, the 19th May, 2009.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their order No. L-20012/439/95-IR(Coal-I), dated, the 2nd January, 1997.

SCHEDULE

"Whether the demand of the trade union for regularisation of Smt. Devanti Kamin and 13 others (given below) by the management of Sijua Colliery of M/s. BCCL is justified? If so, to what relief are these workmen entitled?"

1. S/Smt. Saraswati Kamin.

(2) Br. Shanti Kamin.

(3) Likhi Kamin.

(4) Citua Kamin.

(5) Ch. Muni Kamin.

(6) Sanjoya Kamin.

(7) Budhai Kamin.

(8) Mahasin Kamin.

(9) Patia Kamin.

(10) Nathunia Kamin.

(11) Malti Kamin.

(12) Br. Muni Kamin

(13) Somri Kamin."

2. The case of the above 14 female workers is that they were working in contractual work through Co-operative basis along with other male workers. They were employed as far back as from the year 1979 and continued working permanently till 18-9-94 and thereafter their services were terminated w.e.f. 19-9-94. The nature of jobs performed by

them were (a) drain cleaning, (b) earth cutting, (c) carrying removed earth and dumping them in various places (d) carrying stone in basket from head, (e) loading and carrying coal and sand. All kinds of duty work connected with sanitation were done by them and taken by the management. Payment was being made by BCCL as the nature of job performed by them was for the work of BCCL. The workman have stated that as per Circular No. D (P)/PS/86/ 2649-949(H) dated 8/9-5-1986 the then Director (Personnel), Sri R.A.P. Singh, fixing criteria for departmentalising/regularising workers engaged in work through Co-operative basis. One of the conditions laid down therein is completing attendance 240 days from 1982 to 1985. Thereafter the Agent, Basdeopur colliery of Sijua Area, prepared the attendance of Shri Dhara Rabidas and 49 other workers attendance who were working in Basudeopur colliery as a co-operative workers for their regularisation on the roll of the Company and forwarded it to the Personnel Manager, Sijua Area No. V by his letter dated 1-7-87. The female workers directly involved in the dispute completed more than 240 days attendance between the year 1983 and 1985 and were eligible for their direct employment in BCCL but out of the list prepared by the Agent 12 male workers were taken in direct employment in BCCL and regularised but discrimination was made between male and female workers of the Co-operative where all of them were working together. They have submitted that the concerned female workers submitted a joint representation dated 13-6-91 which was addressed to the General Manager, Sijua Area, demanding for their regularisation on the roll of the Company/BCCL but neither any reply was given to them by the management nor they were kept in direct roll of the Company. They continuing working on contractual basis till termination of their services mentioned in earlier paragraph. Thereafter the General Secretary, of the sponsoring union raised a dispute with the General Manager, Sijua Area by his letter dated 21-6-93 stated therein that the above noted kamins had completed 240 days attendance in a calendar year and a photostat copy of letter No. BPP/87/88/488 dt. 1-7-87 was also enclosed. By this letter the management was informed that male workers of those groups have been taken in company's roll but discrimination has been made in the case of these aggrieved female workers. The attention of the General Manager was also drawn to the joint petition of these female workers which was addressed to the General Manager for considering the demand but due to the adamant and unreasonable attitude shown by the management no bi-partite agreement could be arrived at and thus mutual negotiation failed. Thereafter an industrial dispute was raised before the ALC(C), Dhanbad which ultimately resulted reference to this Tribunal for adjudication. It has been prayed on behalf of the female workers to pass an Award answering the terms of Reference in favour of the workmen holding that the action of the management is illegal and against the fundamental right of the Constitution of India.

3. In the Written Statement filed by the management it has been stated by them that the demand of the trade union for regularisation of Smt. Devanti Kamin and 13 others by the management of the Sijua Colliery of the BCCL is not justified proper and legal and hence the reference is not maintainable. They have further stated that there is absolutely no employer-employee relationship between the parties in the dispute and therefore there cannot be any industrial dispute much less of the present nature between the employer management and its so-called workmen. It has been stated on behalf of the management that the workman-concerned are the contract labour of the Kalyan Sahyog Samiti, Basudeopur who used to get various sorts of contractual jobs in the colliery as and when available. The employer-employee only existed between the Kalyan Sahyog Samiti and the concerned workman for whom the letter worked and in lieu got the Wages. They have stated that the Basudeopur colliery on the Sijua Area of the BCCL in any view of the matter under the Contract Labour (Abolition and Regulation) Act, is the principal employer and the concerned workman are the contractor's (Kalyan Sahyog Samiti's) workmen/Labour, and therefore, they are not at all entitled for departmentalisation in the company, nor entitled for any relief from the company. The BCCL management with the approval of Board of Directors, had some additional requirement of miners/loaders in the company in the year 1986, and had wished to appoint fresh miners/loaders in its various units by way of implementing awards, settlements, agreements by fulfilling its commitments and assurances given in the past. Under this scheme, since the case of the co-operative workers was also covered, 12 male labours of the Kalyan Sahyog Samiti were appointed as fresh miners/loaders on compliance of formalities as applicable in case of fresh appointment. The Kamin workmen under the dispute were not eligible for miners/loaders as they were not fit to do work underground. Since there was no job in the colliery to provide jobs to the Kamin in dispute because the colliery already stood plagued with surplus permanent workmen, contract work, was stopped to the Kalyan Sahyog Samiti. However, taking the welfare of the Kamins in mind and on humanitarian grounds, the company had on a number of times, instructed Srimati Devanti Kamin and 13 others to resume their work as before on the same terms and conditions. But they did not turn up for duties deliberately and intentionally. Since there is no employer-employee relationship between the BCCL management and the concerned workman (kamins) being the contract Labours no industrial dispute existed between them. Consequently, the concerned kamins are not entitled to get any relief and prayer has been made on behalf of the management to pass an Award rejecting the claim of the concerned workman.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

5. The workman side in order to substantiate their claim has examined Devanti Kamin as WW-1, Munshi Rabidas as WW-2 who has proved Ext. W-1 and W-2 to W-2/11. Baleshwar Rabidas has also been examined on behalf of the workman as WW-3. Management on the other hand examined Rakesh Ranjan as MW-1. No document on their behalf has been marked.

6. Main argument advanced on behalf of the concerned kamins is that they were engaged by the management of Basudeopur Colliery through Co-operative Society. The concerned Kamins are 14 in number including Devanti Kamin. Workman's case is that they used to perform drain cleaning, as removal job, stone picking from bunker, supply of coal in quarters for domestic purpose and they were performing their work since long. No identity card was issued to them. At the time of receiving the payment of their wages they used to put their signature/thumb impression upon the register and they have worked for more than 240 days in a calendar year, and this clear from the attendance Register. Their work is of permanent and perennial nature. In this respect Ld. Counsel for the management argued that they were never engaged by the management. The contractors workers and contract is given when there is necessity of work on temporary and casual basis and the concerned workman are not their employees nor any work has been taken from them. In this WW-1 Devanti Kamin in course of his cross-examination stated at page-2 that they were engaged through Contractor, co-operative society and they were all the members of the said society. They do not have any paper to show that they were the members of the said co-operative society. They do not have the copy of any work order also with them. They also do not have any paper to show that their wages were being by the Cashier of the Colliery. Every year prior to rainy season the drains used to be cleaned and for cleaning of the details the management used to engage contract labourers through the co-operative society. Once in every year the bushes and hurbs grown near the drains also used to be cleared through the contract workers. Ash cleaning works also used to be done after about every 10 or 12 days and that also used to be done through contract labourers. They used to supply coal for domestic purpose in the officers' quarters only. Different works assigned to them were being performed by them not regularly rather intermittently. The attendance register was being maintained neither by them nor by the co-operative society, rather the same is with the management only. The statement of the concerned workman shows that the work performed by them are not regular work but it is intermittently done. She has also stated that it is done only after 10/12 days. They cannot be called in any way the work of the management because supply of coal to the officers' quarters is of private work and not the work of the management. It has been admitted very clearly by the above witness that they have been engaged by the contractor through

cooperative society. No payment by the colliery management has been made to them because no paper has been filed that they have got their payment through Cashier of the Colliery.

7. WW-2 Munshi Ravidas in course of his evidence has stated that he is working as a Miner/Loader in Area V of Kankanee Colliery of M/s. BCCL. He has filed appointment letter marked as Ext. W-1 as Badli Miner/Loader. He was appointed in the year 1988. Prior to 1988 they all had been doing miscellaneous nature of job under a Co-operative Society in Basdeopur Colliery of M/s. BCCL. He has deposed that there were altogether 43 persons who were working under the said co-operative. Out of them only 12 persons were absorbed or regularised and rest were made to sit idle. All the 14 concerned workmen used to work with him in the said Colliery. Being the co-operative workers, during that period their attendance used to be marked by the management and the payment of wages used to be made by the Colliery Cashier. He has proved six original copy of coal card and six photo copies of the said cards, marked as Ext. W-2 to W-2/11 showing supply of coal to different residential quarters for domestic purpose. He has further deposed that as co-operative workers all those works which were being performed by them were of permanent and regular nature, and they used to put in the attendance of more than 240 days in one calendar year. He has proved copy of the certificate showing the attendance of the concerned workmen during the period of three years and this is under the signature of the Agent of Basdeopur Colliery marked as Ext. W-3. However, in cross-examination he has said that he cannot give the name of the said Agent who has signed this Ext. W-3. He has also deposed that he is not in a position to say as to what is written in the said document marked as Ext. W-3, but he has seen the original of this document which is lying in the office of the management. He has not got this document photo copied but this was done by his guardian. He has also stated that he does not know as to what was the name of the said co-operative society. One Daso Rabidas was the Secretary of the said Co-operative. He has denied the fact that the said Secretary used to be engaged for getting the work done on contractual basis. He has stated "we were appointed or engaged in the said cooperative by said Daso Rabidas. Chairman of BCCL used to assign works to us. It is true that coal cards remain in possession of the employee of BCCL and they are being supplied coal on the basis of the said cards. It is true that these coal cards Ext. W-2 series do not contain the signature of Issuing Authority or the seal of the management." It shows that Ext. W-2 to Ext. W-2/11 are waste paper because they do not bear the signature of Issuing Authority or the seal of the management. Moreover, this witness also stated in cross-examination, "I do not have any document with me to show that the concerned workmen were also working with me."

8. WW-3 Baleshwar Rabidas in course of his cross-examination has stated "during the relevant period Sri Govind Singh was the General Secretary of the union and it was he who raised the industrial dispute on behalf of the concerned workmen. Still he is the General Secretary of the sponsoring union. I cannot say as to why the written statement in the present case was not filed by the said General Secretary." It only shows that when as General Secretary he has raised the dispute and has not filed Written Statement, he does not want to come before this Court to tell the truth. WW-3 stated in cross-examination, "It is true that only male workers can be assigned the job of miner/loader. It is true that for engagement or for the appointment on surface no vacancy was declared or was made available. It is true that the concerned workmen were engaged by the said Co-operative Society." Ld. Counsel for the management argued that they have got no work force of female workers and WW-3 Baleshwar Rabidas admitted that the job of miner/loaders can be done by male workers and not the female workers. All the 14 persons named in the order of reference are the females. So no job can be given to the female workers as per statement of WW-3. Also as per statement of WW-3 at page-2 it shows that there is no vacancy declared or are available for appointment of miner/loaders on surface. Management also has stated that there is no vacancy in surface for miner/loaders. It only shows that the above 14 workers cannot be absorbed or regularised or given job by the management.

9. No payment sheet or payment order has been filed by the concerned workmen to show that they are getting payment from the management. No Attendance Register has been filed by the society regarding work done from the concerned workmen. Moreover, no work order has been produced to show that they have been given work by the management to perform so that it may be presumed that they are working under the management and that they worked for more than 240 days in a calendar year. Management witness also admitted in cross-examination that the work performed by the concerned workman is not of permanent nature and it is of intermittent nature and it has also been admitted by the management witness that there is no vacancy for miners/loaders with the management and no work can be allotted to the female workers concerned on the surface by the management as miner/loaders. All are female workers so it is not possible for the management to employ them. There is no basis for employment. In this respect Ld. Counsel for the management has referred to a decision reported in 2006 (3) JLR page 535 in which Hon'ble Jharkhand High Court, Ranchi Bench laid down the following:—

"Industrial Disputes Act, 1947-Section 25F-Tribunal's award not becoming final having been stayed-Union not discharging its onus to prove that the workman worked for more than 240 days-materials on record not establishing employee-employer

relationship-positions daily wages and the scheme already closed-no notification issued prohibiting contract labour for supply of water-impugned award set aside."

They have also referred to another decision reported in 2001 Lab. I.C. 3636 in which Hon'ble Supreme Court laid down the following :—

"(A) Interpretation of Statutes-Beneficial Legislation-Ambiguity is to be resolved by granting rather than denying the benefit."

In interpreting a beneficial legislation enacted to give effect to directive principles of the State policy which is otherwise constitutionally valid, the consideration of the Court cannot be divorced from these objectives. In a case of ambiguity in the language of a beneficial labour legislation, the Courts have to resolve the quandary in favour of conferment of rather than denial of, a benefit on the labour by the Legislature but without rewriting and/or doing violence to the provisions of the enactment.

Contract Labour (Regulation and Abolition) Act (37 of 1970) S.1.

There does exist a distinction between public law and private law. The divide between the public law and the private law is material in regard to the remedies which could be availed when enforcing the rights, public or private, but not in regard to interpretation of the Statutes. Principles of public law interpretation as opposed to private law interpretation for interpretation of statute are not found either in any authoritative treatise on interpretation or in pronouncement of any Court. It cannot, therefore, be accepted that while interpreting public law like Contract Labour Act the principle of literal interpretation has to be discarded as it represents common-law approach applicable only to private law field and has no relevance when tested on anvil of Art. 14.

(E) Constitution of India, Art. 12-Instrumentalities of Govt.-Are not agents of Govt. for all purposes.

The principle that while discharging public functions and duties the Govt. Companies/Corporations/Societies which are instrumentalities or agencies of the Government must be subjected to the same limitations in the field of public law-Constitutional or administrative law—As the Government itself, does not hold to the inference that they become agents of the Centre/State Government for all purposes so as to bind such Government for all their acts, liabilities and obligations under various Central and/or State Acts or under private law.

Ld. Counsel for the management also referred to another decision reported in 2006 (2) LJLR page 282 (SC)-Secretary, State of Karnataka... Appellants-versus-Uma Devi & Ors. in which Hon'ble Supreme Court laid down the following :—

"Constitution of India-Article 226-wide powers thereunder-Courts should desist from issuing orders for continuance of those who have not secured regular appointments as per established procedure-wide powers under Article 226 are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment High Court is the sentinel and guardian of equal rights protection-Courts are not to ignore, encourage or approve appointments made or engagements given outside the constitutional scheme (Paras 3 and 12).

Constitution of India-Article 309-State is meant to be a model employer and its power of appointment are subject to constitutional limitations and cannot be exercised arbitrarily-when statutory rules are framed U/Art. 309 the only fair means to adopt is to make appointments based on the rules so framed-employees engaged without following due process or the rules- did not acquire any right-Court cannot direct absorption, regularisation or re-engagement or permanency of such employees. (Paras 5, 30 and 31).

Service Law-Appointments-no employment is envisaged outside the constitutional scheme and without following the requirements set down therein-equality of opportunity is the hall mark-provisions exist for affirmative action to ensure that unequals are not treated equals-though the Government precluded from making temporary appointments, regular appointments must be the rule-Constitutional scheme of public employment flows from Articles 14, 16, 315, 320 and 335 in absence of any right to a post or to a particular status, appointment cannot be deemed to be valid-directions for re-engagement of such persons in any other work would make judicial process another mode of recruitment de hors the rules (Paras 10, 12, 22, 24, 27 and 40).

Service Law-Absorption-High Court should not U/Art. 226 ordinary issue directions for absorption regularisation of permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme-merely because an employee had continued under cover of an order of the Court (litigious employment)-he would not be entitled to be absorbed or made permanent. (Para-34).

Service Law-pay-equal pay for equal work while accepting employment, daily wages or casual or temporary person concerned knows the nature of his employment and wages to be paid-daily wagers form a class by themselves-they cannot claim discrimination with regular employees even by invoking the principle of equal pay for equal work they cannot be treated at par with regular employees Article 14 and 16 not attracted (Paras 36 and 39).

Words and Phrases Doctrine of legitimate expectation doctrine can be invoked if the decisions of the Administrative Authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted to enjoy and which he can legitimately expect to be permitted to continue to do or (ii) he has received assurance that they will not be withdrawn without giving him an opportunity. (Paras-37).

Constitution of India Article 21 regularisation-regularisation of persons engaged dehors the rules in the guise or upholding rights u/Art. 21, would negate the rights of the other u/Art. 21 also daily wagers having accepted the employment on their own violation, cannot be termed forced labour and it does not breach Art. 23-right to life does not include right to employment. (Paras 41 and 42).

Service law Regularisation cases of irregular appointments (not illegal appointments) of duly qualified persons in sanctioned posts working for ten years or more appointed not under cover of orders of Courts or tribunal their regularisation may be considered as one time measures further directions given for filling up vacant sanctioned posts (Paras-44)."

In view of the facts, circumstances, evidence and citations of rulings discussed above, I hold that the concerned female workers are not entitled to get any relief. Accordingly following Award is rendered :—

"The demand of the trade union for regularisation of Smt. Devanti Kamin and 13 others whose names have been mentioned in the order of reference, by the management of Sijua Colliery of M/s. BCCL is not justified. Consequently the concerned female workers are not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2009

का.अ. 2005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार ने की.सी.सी.

एल. के प्रबंधन के संबंध निम्नलिखित और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/सम न्यायालय संख्या 1, धनबाद के संख्या (नंबर) संख्या 89/1996 को प्रसारित करती है, जो केन्द्रीय सरकार को 23-06-2009 को प्राप्त हुआ था।

[सं. एल-20012/278/95-आई.अर. (सी-1)]

स्नेह लता जवाव, डेप्युटि अधिकारी

New Delhi, the 23rd June, 2009

S.O. 2005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/1996) of the Central Government Industrial Tribunal/Labour Court, No. I Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 23-06-2009.

[No. L-20012/278/95-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT DHANBAD

Present : Shri H.M. Singh, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

Reference No. 89 of 1996

Parties : Employers in relation to the management of Moonidih Project of M/s. BCCL and their workmen.

APPEARANCES

On behalf of the Workmen : Mr. D. Mukherjee,
Advocate.

On behalf of the Employers : Mr. H.Nash,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 18th May, 2009

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/278/95-I.R.(C-1), dated, the 3rd October, 1996.

SCHEDULE

"Whether the demand by the union for including the Face Dearness Allowance as a part of Basic Wage to fix the revised basic wages of S/Shri Laloo Charan Mahato and 8 others (as given below) at the time of regularisation as Overman/Mining Sirdar is legal and justified? If so, to what relief are the concerned workmen entitled?"

Name of the workman	Name of the workman
2. S/Sh. Chandi Charan Das, Mining Sirdar	6. S/Sh. Ram Gope, Mining Sirdar.
3. " Nageshwar Sharma, Mining Sirdar	7. " Kusankur Mining Das, Sirdar
4. " N.D. Ghosh Mining Sirdar	8. " T.B. Paswan, Mining Sirdar
5. " Samir Kumar Roy, Mining Sirdar	9. "Nitish Kr. Overman Mukherjee

2. The case of the workmen as per their Written Statement is that the concerned workmen were appointed in BCCL in the month of April, 1978 on different dates in Face ewew (piece rated Group -5A at the rate of Rs. 14.62 per day. Thereafter all the concerned workmen were regularised on the post of Mining Sirdar and Overman and their pay scale was reduced at the rate of Rs. 13.00 per day only and arbitrarily and illegally all the concerned workmen were put to loss of Rs. 1.62 per day each. It has been further stated on behalf of the workmen that the management has got no reason and ground to reduce the pay scale which is itself evident from the letter of P.M. Monidih Project vide No. MID/PM/Pra/Recruitment/78/9/75-93 dated 22-4-78 in which the daily wages rate has been mentioned as Rs. 14.62 for piece rated Group -VA. They have also stated that the comment of the management in this matter is not at all tenable and acceptable as because there is no provision to show that in case of change of post from the post of face ewew, the basic pay Rs. 14.62 would be reduced to Rs. 13.00 only. The management acted arbitrarily in the matter and they by the concerned workmen are bint put in loss of Rs. 1.62. Accordingly it has been prayed on behalf of the concerned workmen to pass Award in their favour.

3. In the Written statement filed on behalf of the management it has been stated that the present reference is not maintainable both on law and facts of the case. Management have submitted that the concerned workmen were appointed as Piece-rated Workers in the Group VA in the year 1978. Subsequently after their obtaining statutory Certificate, they were diverted to the post of Mining Sirdar/Overman and accordingly their wages were fixed giving due care to the Basic etc. While fixing their wages Wage protection was taken in respect of all the concerned workmen. Management have further submitted that after reularisation the Basic Pay of the concerned workmen was fixed as per the Basic Wage include Group VA+

Piece rated allowance in their required grade and the concerned workmen automatically ceased to do the job of Face-Work with their promotion, this face D.A. could not be counted for fixing their wages. Moreover, those workmen who again work as Mining Sirdar or Overman are still working in faces, they are being given additional wages of Rs. 6.38 Paise per day. Accordingly there is no question of any monetary loss to the concerned workmen as their wages have been fixed as per the norm of M/s. B.C.C.L. It has been further stated by the management that the concerned workmen raised an Industrial Dispute before the Assistant Labour Commissioner (C), Dhanbad vide letter, dated 11-8-93 regarding the wages of the concerned workmen. On receipt of the letter from the Assistant Labour Commissioner (C), Dhanbad, dated 13-9-93, the Project Officer, Moonidih Project vide his letter, dated 24-9-93 replied to the same and explained the facts and prayed for cling of the case. It has been further stated that the dispute which has been raised by the concerned workmen after delay of many years has become a stale demand and it is not maintainable in view of the various rulings of the Hon'ble Supreme Court and Hon'ble High Court. Accordingly it has been prayed on behalf of the management to pass an Award in favour of the management rejecting the claim of the concerned workmen.

4. Both sides have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

5. The workmen side in order to substantiate their case has produced Samir Kumar Roy and examined him as WW-1. On their behalf documents have been marked as Ext. W-1 to W-4. Management also in order to substantiate their case has produced Nand Kishore Jha who has been examined as MW-1. On their behalf documents have been marked as Ext. M-1 to M-5.

6. It has been argued on behalf of the concerned workmen that they were getting Rs. 14.62 P. per day which has been reduced to Rs. 13.00 per day after they have been regularised on the post of Mining Sirdar and Overman and there is no reason to reduce their pay scale and they are entitled for 14.62 Group -V wages as per letter of P.M. Moonidih Project vide No. MID/PM/Pra/Recruitment/78/9/75.93 dated 22-4-78. Ld. Representative of the management on the other hand argued that the concerned workmen have already been paid more than required. He has also argued that as per rules they are being paid extra allowance. There is no provision available in N.C.W.A. for face D.A. as part of basic pay. As per document filed by the concerned workman marked as Ext. W-4 it shows that they were being paid Rs. 14.62 per day. The said document has also been filed by the management marked as Ext. M-4. In this respect the concerned workman WW-1 has stated in cross-examination that "before regularisation as Mining Sirdar/Overman we were getting piece-rated wages. Since we were not working as Face workers therefore the management

was justified in stopping payment of face allowance, but our grievance is for variation in basic wages. We were getting an additional mechanised face allowance. We have not filed paper to show that prior to raising dispute we had made demand to the management." It only shows that they have not raised the demand with the management before raising the present dispute. Ld. Counsel for the management argued that the matter is belated one. The concerned workman have been regularised in 1986 and they have raised the present industrial dispute in the year 1996. It only shows that their case is stale one though there is no time limit prescribed in raising industrial dispute in the I.D. Act, 1947. The concerned workmen are getting mechanised face allowance as stated by the concerned workmen.

In view of the facts, circumstances and evidence discussed above I find no merit in the demand of the concerned workmen. Accordingly following Award is rendered:-

"The demand by the union for including the Face dearness Allowance as a part of Basic Wage to fix the revised basic wages of S/Shri Laloo Charan Mahato and 8 others (as given below) at the time of regularisation as overman/Minng Sirdar is not legal and not justified. Consequently, the concerned workmen are not entitled to get any relief.

Name of the workmen.

1. S/Shri Chandi Charan Das Mining Sirdar.
2. " Nageshwar Sharma -do-
3. " N.D. Ghosh -do-
4. " Samir Kumar Roy -do-
5. " Ram Gope -do-
6. " Kusankur Das -do-
7. " T.B. Paswan -do-
8. " Nitish Kr. Mukherjee Overman.

H.M. SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2009

का.आ. 2006.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै.बी.सी.सी. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या I, धनबाद के पंचाट (संदर्भ संख्या 89/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-06-2009 को प्राप्त हुआ था।

[सं. एल-20012/133/2002-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 23rd June, 2009

S.O. 2006.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/2002) of the Central Government Industrial Tribunal/Labour Court, No. 1 Dhanbad now as shown in the Annexure, in

the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman, which was received by the Central Government on 23-06-2009.

[No. L-20012/133/2002-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of I.D. Act.

Reference No. 89 of 2002

Parties : Employers in relation to the management of Bhowra (South) Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

Present : Shri H.M. SINGH, Presiding Officer.

APPEARANCES

For the Employers : Shri U. N. Lal, Advocate.

For the Workman : Shri R. Rai, Authorised Representative

State : Jharkhand Industry : Coal.

Dated, the 26th May, 2009

AWARD

By Order No. L-20012/133/2002-I.R. (C-I) dated 26-7-02 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

अनुसूची

" क्या भा.को.को.लि. भाऊरा (सा) कोलियरी के प्रबंधन द्वारा कर्मकार श्री समीर कुमार बाठरी को क्लर्क III के पद पर नियमित न किया जाना उचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस राहत के पात्र हैं तथा किस तारीख से "

2. The written statement has been filed by the concerned workman stating that he was appointed on 3-3-1987 as Miner/Loader at Bhowra (South) Colliery. The Dy. C.M.E., Bhowra (South) Colliery vide his letter No. 1739 dated 15/22-4-1991 directed the concerned workman to work in the Accounts Section as Clerk. Since then he is working as a Clerk in Accounts Deptt and accordingly he was regularised in Clerk Grade-III vide order No. 141-58 dated 3/6-1-98 by the order of Dy. C.P.M., Bhowra Area No. II. Further it has been submitted that Samir Kumar Bouri, concerned workman, was regularised by the Project Officer of Bhowra (south) colliery on the basis of order dated 3/6-1-94 of Dy. Chief Personnel Manager. But the said order was not implemented. Hence, the union raised an industrial dispute before A.L.C. (C), Dhanbad, demanding

regularisation of the concerned workman in Clerk Grade-III w.e.f. 22-4-1991 according to the provision of Certified Standing Order. Conciliation proceeding was ended in failure and the appropriate Government referred the dispute to this Tribunal for adjudication. It has been prayed to pass an award in favour of the workman.

3. The management has filed written statement stating that Samir Kumar Bouri, concerned workman, was appointed as Miner/Loader on 3-3-87. He was deployed as Sand Munshi w.e.f. 19-9-89 to work as temporary basis. The competent authority had accorded approval for regularisation of the workman as sand Munshi with the condition that the workman should accept the date of birth as per Form 'B'. The workman concerned had produced latter on his matriculation certificate which the workman had stated to have been passed in S.S. Annual Examination in 1988. the concerned workman has been regularised as Sand Munshi in Clerk Gr. III with immediate effect vide office Order No. EJ/86/99/13163 dated 1/2-12-99 signed by the Dy. Chief Personnel Manager, Bhowra Area. The claim of the workman has been accepted and he has been regularised alongwith others in Clerical Grade-III. It has been prayed that an award be passed that the regularization order issued by the management in regularising him in Clerical Gr. III w.e.f. 1/12-12-99 is just and fair, and the concerned workman is not entitled to any other relief in the instant case.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. Argument advanced on behalf of the management is that the concerned workman was appointed on 3-3-87 as Miner/Loader. It has also been argued by the management that the concerned workman was regularised as Sand Munshi in Clerical Gr. III with immediate effect vide Office Order No. GM-Per/EJ/86/99/13/63 dated 1/2-12-99 signed by the Dy. Chief Personnel Manager, Bhowra Area. It has also been argued on behalf of the management that in respect of the concerned workman it was taken up by the union vide letter dated 30-12-93 vide item 14 of the meeting held at corporate level vide Office Order dated 3/6-1-94, but for regularisation w.e.f. 22-4-91 of the concerned workman is not justified and it is not as per rules of the company.

6. In this respect it has been argued on behalf of the concerned workman that he was appointed as Miner/Loader from 3-3-87 but the work of Clerk was taken from him as per order dated 15/22-4-1991 being No. PS/BH(S)/91/14-Staff/739. By this office order he was ordered by the management to work as Clerk in the Account Department under Asstt. Finance Officer for a period of six months, Ext. W-1 and it has been extended after completion of six months by the management vide Office Order No. PS/BH(S)/91/11/2036 dated 6/9-11-91, Ext.M-1. As per Company's rule 73 the probation period is only for six months and the concerned workman completed more than six months even then he was not given pay for the work

which was taken from him. The management has promoted the concerned workman on 3/6-1-94 as per Ext. W-2 and as per Ext. W-2/1 he was at serial No. 2 for regularization from as clerk in Gr. III w.e.f. 6-1-9, though he was working as muni from 18/19-9-1989, Ext. M-2. As per Ext. M-3 regularization has been done by the management on 10/12-11-1999.

7. Moreover, the concerned workman has filed order of the management dated 28-3-2008 being Office Order No. PS/BH(S)/99/11/257 wherein it has been mentioned that as D.K. Maheshwari, Bill Clerk of Bhowra (S) Colliery is going to retire from 1-4-08 the concerned workman was directed to work at bill section with immediate effect. It only shows that the work was taken from the concerned workman since 22-1-1991 but he was not regularised due to the reason known by the management. As per statement given on behalf of the management witness M/W-1-Ramadhar Tripathy, he has stated in cross-examination at page 2 that the letter Ext. W-2 has been issued by Dy. C.P.M. and in this letter there is order of Dy. C.P.M. for regularisation of Samir Bouri in Clerical Gr. III but the same was not approved by the competent authority. The letter Ext. W-2/1 is under the signature of the Project Officer. By this office order the concerned workman was ordered to be regularised in reference to earlier letter Ext. W-2. The order was not implemented. But the concerned workman still getting the wages of Miner/Loader. There is rule of payment of wages according to the work performed. After examining the record of the office I can say whether there is any proof of service of that order to the concerned workman. This evidence of the management shows that the work of Clerical Grade-III is taken from the concerned workman but the payment is not paid for Clerical Grade-III. He was given wages of Miner/Loader which is against the rule.

8. In view of the discussions made above, I come to the conclusion that the action of the management in not paying wages of Clerk grade-III to the concerned workman, Samir Kumar Bouri, is not justified and accordingly, the concerned workman is entitled to be regularised as Clerk Grade-III w.e.f. 22-4-1991 and arrears of difference wages with effect from that date i.e. 22-4-1991.

9. Accordingly, I render the following award -

The action of the management of M/s. B.C.C.Ltd. in not regularising Samir Kumar Bouri as Clerk Grade-III w.e.f. 22-4-1991 is not justified. Therefore, the concerned workman is entitled for regularisation as Clerk Grade-III w.e.f. 22-4-1991 with difference of wages from that date. The management is directed to implement the award within 30 days from the date of publication of the award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2009

क्र.अ. 2007. - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै एड्वर इंडिया लि. के प्रबंधकों के संसद निवेदनों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण/इस न्यायलय संख्या 2, पुणेई के पंचाट (संदर्भ संख्या 2/16/ का 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-06-2009 को प्राप्त हुआ था।

[सं. एल-11012/56/99-आई.आर. (सी-1)]

स्नेह लता जबास, डेस्क अधिकारी

New Delhi, the 23rd June, 2009

S.O. 2007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.2/16 of 2000) of the Central Government Industrial Tribunal/Labour Court, No.2 Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Air India Ltd. and their workman, which was received by the Central Government on 23-06-2009.

[No. L-11012/56/99-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 MUMBAI

Present : Shri A.A.Lad, Presiding Officer

Reference No. CGIT-2/16 of 2000

Employers in relation to the management of

M/s. AIR INDIA LTD.

(Now National Aviation Company of India Ltd.)

The Managing Director,

Air India Ltd.

(Now National Aviation Company of India Ltd.)

Air India Bldg., Nariman Point,

Mumbai-400021.....1st Party

V/s.

Their Workmen

Shri A.D.Salvi,

Adarshila Co-op. Housing Society Ltd.

163/19 Gorai-II,

Borivali (West), Mumbai-400092.....2nd Party

APPEARANCES

For the Employer: Mr. Lancy D'Souza,
Representative

For the Workmen: Mr. Jaiprakash Sawant,
Advocate

Date of Reserving the Award: 14-1-2009.

Date of Passing the Award: 01-05-2009.

AWARD PART II

The Government of India, Ministry of Labour by its Order No.L-11012/56/99/IR(C-I) dated 4th January, 2009 in exercise of the powers conferred by clause (d) of sub-section (1) and sub section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Air India Ltd. in dismissing the services of Shri A.D. Salvi, Ex-Traffic Assistant w.e.f. 16-4-1996 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. Workman Salvi was employed by the Management of Air India as Typist/Clerk in 1977 and that he was promoted as Senior Traffic Assistant. Vide Statement of Claim (Exhibit 6) workman pleaded that, the management issued him charge sheet dated 4th October, 1995 alleging his unauthorised absence from duty. According to workman domestic inquiry conducted against him in respect of the said charge sheet was against the principles of natural justice in as much as undue haste was done and that, the genuine difficulties for remaining absent were not considered and that, he had intimated the Management on his absence along with medical certificate. It is averred that, the proceedings initiated against him was without authority of law and that findings recorded are perverse, consequently inquiry as a whole vitiates. It is contended that, based on the inquiry report workman was dismissed from service w.e.f. 16th April, 1996 and that, his dismissal being illegal, management be directed to reinstate him in service with full back wages, setting aside the inquiry.

3. Management Company resisted the claim of workman by filing Written Statement (Exhibit 9) contending that, though the workman was promoted as Senior Traffic Assistant in the year 1989 was demoted as Traffic Assistant in the year 1995 and on the day of issuance of the charge sheet, he was Traffic Assistant and not the Senior Traffic Assistant. It is averred that, the workman remained absent without permission in the year 1995 for about 149 days. Prior to that also he was absent unauthorisedly for which he was penalized, but he could not mend his conduct and that, his absence created obstacle in the working of the Company therefore he was issued charge sheet on 4th October, 1995 which he replied on 29th February, 1996, however explanation being not satisfactory domestic inquiry was initiated against him. It is contended that, the inquiry committee giving sufficient opportunity conducted the inquiry and based on the evidence and the documents, recorded the findings and based on that after seeking approval by the application dated 16th April, 1996 in Reference No.1 of 1990 from the National Industrial Tribunal, Mumbai, the workman was dismissed from service w.e.f. 16th April, 1996. It is contended that, inquiry being fair and proper and findings not perverse, the claim of the workman be dismissed with costs in limine.

4. In view of the above pleadings issues were framed by my Ld. Predecessor at Exhibit 11 where, the issue of domestic inquiry and perversity of the finding of the inquiry officer were framed and were tried as preliminary issues. Award Part I was passed on the said issues on 22-8-2003 holding enquiry fair and proper and finding not perverse.

5. Now the remaining issue on quantum of punishment remain to decide which is Issue No.3 amongst the issues framed at Exhibit 11 which I answer as under:

ISSUES	FINDING
3. Whether the action of the Management of Air India Ltd. in dismissing the services of Shri A.D. Salvi, Ex-Traffic Assistant w.e.f. 16-4-1996 is legal and proper?	Yes
4. What relief the workman is entitled to?	Does not arise.

ISSUES NOS. 3 & 4:

REASONS:

6. The concerned workman was charge sheeted on the charge of absenteeism and enquiry was conducted against him where the concerned workman was found guilty of the said charge of absenteeism. In the said enquiry concerned workman led evidence and the Enquiry Officer gave decision observing charge of misconduct of absenteeism is proved against him. 1st Party submits that, the enquiry was challenged by the 2nd Party vis-a-vis perversity of finding and state that, after recording evidence my predecessor observed enquiry fair and proper and finding not perverse.

7. Now, point of quantum of punishment is taken for adjudication at this stage. As stated above charge of misconduct i.e. of absenteeism was leveled against the concerned workman. After holding enquiry and after recording evidence, Enquiry Officer observed said charge levelled against the concerned, workman were proved, which was upheld by my Predecessor while passing Award I observing enquiry fair and proper and finding not perverse. It is to be noted that, said is not challenged by the concerned workman till this moment.

8. Now, question arise for consideration is whether the punishment of termination awarded to 2nd Party is adequate?

9. To prove that, 2nd Party made out case that, the punishment of termination awarded to him is not proportionate for his absenteeism. To prove that, he placed reliance on his affidavit filed at Exhibit 32 in lieu of his examination-in-chief. However, in the said affidavit 2nd Party again disputed about the enquiry stating that, the General Manager Sales and Space Management has no power or authority to initiate disciplinary proceedings or

enquiry against the concerned workman. He claims that, said authority cannot issue charge sheet as well as issue termination order. He challenges the status of the Authority by filing this affidavit even at this stage when point of quantum of punishment is under consideration vis-a-vis termination. He states that, he was compelled to remain away from his duty during the period covered in the charge sheet on account of genuine difficulties and the circumstances which were beyond his control. Even he alleges that, he submitted medical certificates to the Management in respect of illness of members of his family. He also alleges that, he was under medical treatment of Medical Officer of the Management. He alleges that, punishment of dismissal from services given to him w.e.f. 16th April, 1996 is very harsh and disproportionate to the gravity of alleged of misconduct of absenteeism. He goes on alleging that, since it was not order of competent authority it does not attract legality and sanctity. In the cross he admits that, the charge sheet is signed by Commercial Manager. He admits that, he was not aware about change of the designation of the Commercial Manager from 1996. He admits that, he was punished four times of the charge of absenteeism prior to serving- order of dismissal as shown on page 34 of Exhibit 13. Then 2nd Party closed his evidence and filed closing purshis at Exhibit 33.

10. As against that, 1st Party placed reliance on the evidence of its witness Mrs. Shubhada Shreekrang Marathe by filing her affidavit at Exhibit 39; in lieu of her examination-in-chief, who states that, according to Clause 3.12 of the Scheme of Amalgamation, which, interalia, deals with the legal proceedings, the National Aviation Company for India Ltd. have undertaken to have such legal, quasi judicial and other proceedings initiated by or against the aforesaid Transferor Companies, namely, Air India Ltd. and Indian Airlines Ltd., transferred in the name of National Aviation Company of India Limited. It is stated that, the said national Aviation Company of India Ltd. has also undertaken to deal with the legal or other legal proceedings which may be initiated against the Transferor Companies (Air India Ltd. and Indian Airlines Ltd.) after the effective date relating to the Transferor Companies in respect of the period upto the effective date in its own name and account and to the exclusion of the Transferor Companies. She further states that, the concerned workman was issued a charge sheet dated 4th October, 1995 as per the Model Standing Orders (Central). She states that, list of Authorities who are empowered to take disciplinary action and hear appeals were specified in the circular dated 17th November, 1990 and as per that Commercial Manager/Regional Manager or its equivalent is the Competent Authority and as per that, Competent Authority issued the charge sheet against the concerned workman. He says that the Commercial Manager/Regional Manager are the officers of that equivalent status. He further states that, Mr. O. Sankharan,

the then Deputy Commercial Director of the 1st Party Company has signed the impugned order under challenge. He further states that, as per order dated 30-11-1995 said Mr. O. Shekharan was promoted as Dy. Commercial Director w.e.f. 1-11-1995 and said order was signed by Shri N.S. Rajan, the then Director, HRD. He further states that, post of executives and officers were rationalized vide circular dated 23rd February, 1996. It is further stated that, the said circular mentioned that, the said changes in the designation of Executives/Officers in various grades would not involve any change in the exercise of administrative, financial, disciplinary powers. He further states that, vide order dated 30-11-95 Shri O.P. Shekharan was promoted as Dy. Commercial Director, the revised designation of the same is General Manager and during the relevant period post of Dy. General Manager in the Sales & Space Management Unit of Commercial Department, in which the workman was working before his dismissal was vacant. He further states that, on perusal of both the standard force statement of the office of CM and also Dy.C.D.—Sales and Space Management as on 1st January, 1996 and 1st July, 1996 respectively shows that, the post of Commercial Manager/Dy. General Manager (Revised) is one which was vacant during 1-1-1996. He further states that, since the post of Dy. General Manager was vacant in the said Division at the relevant period, the order of dismissal dated 16-4-1996 was signed by Shri O. Shekharan in his capacity as the General Manager, which is the post next higher in hierarchy to that of Dy. General Manager.

11. In the cross he states that no standing orders were displayed on the notice board which were applicable to the concerned workman. He also states that, he has no idea whether copy of the said was given to the concerned workman.

12. So this is the evidence led by both on the point of quantum of punishment. 2nd Party filed written arguments at Exhibit 40 and 1st Party at Exhibit 41 with some citations.

13. In view of the discussions made above and the written arguments submitted by both, I find, 2nd Party still does not come and want to come out of dispute of fairness of the enquiry and perversity of the finding. Even at this stage he challenges that, the enquiry saying it was not fair and proper. He also alleges that, the officer of the Airport Authority who issued the charge sheet was not competent authority to serve the charge sheet upon him alleging that, the order of dismissal is also signed by an officer who was not competent to sign it. As against that, evidence led by 1st Party by filing affidavit of Mrs. Marathe at Exhibit 39 categorically gives idea how Mr. Shekharan, the then Commercial Manager, whose revised designation was General Manager, signed the charge sheet and dismissal order, since the post of Commercial Manager was lying vacant before his dismissal order dated 16-4-1996. On that

nothing is stated by the 2nd Party. Besides he is not showing how punishment awarded of dismissal is not just and proper. However, he admits that prior to that, he was having no idea on the penalty laid 4 times on the point of absenteeism. It shows that, absenteeism is the problem of the 2nd Party which he does not want to improve. When that was the habit of the 2nd Party of remaining absent from duty and when he was warned from time and again, he suffers by the same problem. Here question arise Whether such a conduct on the part of the 2nd Party can be treated as simple and require to ignored? It is argued by 1st Party that, he was convicted on 4 occasions in the past which does not permit 2nd Party to pray for any benefits as he was given a chance on four occasions in past to improve his attendance. Besides Ld. Advocate for the 1st Party placed reliance on the citation published 2004 III CLR page 289 in the case of Delhi Transport Corporation vs. Sardar Singh where Apex Court observed that, if unauthorized absence for a long period is proved which is habitual negligence in duties, in that case, one has to consider that such a conduct was nothing but irresponsible in extreme and hardly be justified. He also placed reliance on citation published in 2008 (I) CLR page 978 in the case of L & T Komatsu Ltd. vs N. Udayakumar where Apex Court observed that, when charge of absenteeism is proved, the habitual absenteeism is gross violation of discipline and in that case one cannot expect leniency and Courts should not interfere with the order of termination. Another citation relied by 1st Party is published in 2005 III CLR page 539 in the case of Larsen & Toubro Grahak Sahikari Sanastha Maryadit, Bombay vs. Talaji Kashinath Vishwe & ors. where our Hon'ble High Court observed that, when enquiry was found fair and proper in such case and when dismissal is not shown improper it is observed it is justified. The ratio laid down in citation published in 2006 (110) FLR page 965 of our Hon'ble High Court, in the case of Rasik Govind Mankar vs. Oberoi Towers, reveals if action was taken on the habitual absenteeism which was proved by holding enquiry. When enquiry was legal and proper in that case, one cannot ignore punishment awarded by disciplinary authority.

14. If we consider all this coupled with the case made out by both, where 1st Party succeeds to show that, the punishment awarded by it of dismissal is proved as just and proper I conclude that, in the case of absenteeism, if proved, and when it is shown by the employer that, he was a habitual in remaining absent in that case, the punishment of dismissal is just and proper and does not require interference with the punishment awarded on 2nd Party. So I answer this issue to that effect and pass the following order:

ORDER

Reference is rejected with no order as to its costs.

Bombay,
1st May, 2009

A.A. LAD, Presiding Officer

नई दिल्ली, 25 जून, 2009

क्र. आ. 2008.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार, केन्द्रीय सरकार पंजाब नेशनल बैंक, रोहतक के प्रबंधकों के संवाद निरीक्षणों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, नई दिल्ली के फंक्ट (संदर्भ संख्या 64/2007) को प्रकटित करती है, जो केन्द्रीय सरकार को 25-06-2009 को प्राप्त हुआ था।

[सं. एल-12012/30/2007-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/2007) of the Central Government Industrial Tribunal/Labour Court, No. 1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Punjab National Bank, Rohtak and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12012/30/2007-IR (B-II)]

RAJENDER KUMAR, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV: PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1: NEW DELHI: KARKARDOOMA
COURT COMPLEX: DELHI

I.D. NO. 64/2007

In the matter of dispute between :

Shri Satbir Singh, 44/10, Near Old Delhi Bus Stand,
Rohtak.

... Workman

Versus

The Senior Regional Manager,
Punjab National Bank,
Regional Office Near Railway Double Phatak,
Geeta Colony, Rohtak,
Rohtak.

... Management.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/30/2007 (IR) (B-II) dated 23-08-2007 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Punjab National Bank in terminating the services of Shri Satbir Singh S/o Shri Chhotu Ram, Peon-cum-Driver w.e.f. 22-03-1998 is just and legal? If not, to what relief the workman is entitled?"

2. Notice was issued to the parties on 10-9-07 for filing of claim statement on 12-11-2007. Ten adjournments

were granted to the workman for filing of claim statement but the workman opted not to file claim statement till date. Notice was again sent to the workman by registered post on 22-3-08, which has been received back with the remarks that address was incomplete. As per reference sent by the Appropriate Government, Satbir Singh is resident of 44/10, Near Old Delhi Bus Stand, Rohtak. Notice was sent on this very address. Therefore, it is evident that addressee has either given incomplete address or by the passage of time, municipal number has been changed. The addressee had not notified his fresh address to this Tribunal. Under these circumstances, this Tribunal cannot send notice to Satbir Singh at any other address, than that given in the reference order. As detailed above, said notice has been received back undelivered, which fact precludes this Tribunal from having claim of the workman before it. Workman never opted to file his claim statement.

3. Though reference made by the appropriate Govt. casts onus on the management to show that order dated 22-3-98, terminating the services of the workman, is just and legal, yet in the absence of the workman it is not expedient to call upon the management to justify their action. One side story would not lead the Tribunal steep through to find out correct facts. Long absence and inaction on the part of the workman raises a presumption to the effect that he is not at all interested to raise his case before this forum. Consequently I am left with no option but to conclude that there remains no dispute between the parties. Resultantly a No dispute award is passed. It be sent to the appropriate Government for its publication.

Dated : 18-6-2009

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 25 जून, 2009

क्र. आ. 2009.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार, केन्द्रीय सरकार सिंडिकेट बैंक, लखनऊ के प्रबंधकों के संवाद निरीक्षणों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के फंक्ट (संदर्भ संख्या 149/2001) को प्रकटित करती है, जो केन्द्रीय सरकार को 25-06-2009 को प्राप्त हुआ था।

[सं. एल-12011/114/2001-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2009.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 149/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12011/114/2001-IR (B-II)]

RAJENDER KUMAR, Desk Officer

ANNEXURE

Central Government Industrial Tribunal-cum-Labour
Court, Lucknow

Present :—N.K. Purohit, Presiding Officer

I.D. No. 149/2001

Ref. No. L-12011/114/2001-IR (B-II) dated 07-09-2001

BETWEEN

The State Secretary
Syndicate Bank Empls. Union State Committee,
211, Vinay Palace, Ashok Marg
Lucknow (U.P.)-226001
(Espousing case of Shri Rakesh Kumar)

AND

The Dy. Gen. Manager, Syndicate Bank
Zonal Office, Meerut Wing,
Bhawani Puram University,
Meerut, U.P.-250001

AWARD

15-06-2009

1. By order No. L-12011/114/2001-IR (B-II) dated : 07-09-2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the State Secretary, Syndicate Bank Empls. Union State Committee, 211, Vinay Palace, Ashok Marg, Lucknow (U.P.) and the Dy. Gen. Manager, Syndicate Bank, Zonal Office, Meerut Wing, Bhawani Puram University, Meerut U.P. for adjudication.

2. The reference under adjudication is :

"Whether the action of the management of Syndicate Bank in imposing the punishment of removal from service of Shri Rakesh Kumar, Ex Part Time Sweeper, w.e.f. 24-3-2000 vide Order Dated 24-03-2000 is justified? If not, what relief he is entitled?"

3. It is admitted case of the parties is that the workman Rakesh Kumar was employed as part time sweeper on half scale wages at Collectorate Branch of the Syndicate Bank at Meerut and he was served upon a charge sheet dated 23-3-98 for alleged gross misconduct by the Dy. GM, Zonal Office, Meerut for alleged gross misconduct of receiving Rs. 500/- from Smt. Manju Sharma on 12-8-97 for depositing the same in her saving bank account and temporarily misappropriating the amount of Rs. 500/- and later crediting the above amount to her S/B account on 16-9-97 after the depositor lodged a complaint in the branch. The management of the bank being unsatisfied with the reply of the workman instituted an domestic enquiry into the charges leveled against the workman and the enquiry officer after conducting such enquiry submitted his report before Disciplinary Authority on 15-12-1999 who, after issuing show cause notice to the workman, imposed the punishment of removal from the services of the bank with immediate effect without disqualification for future

employment vide order dated 28-2-2000. Aggrieved from penalty order the workman preferred an appeal before Appellate Authority, which too was rejected.

4. It is case of the workman's union that the enquiry proceedings were held ex-parte without affording any opportunity to the workman for defence and all the correspondences/memos/notices issued to him by the bank were in English in violation of para 19.16 of the Bipartite Settlement, which being a sweeper he was not able to understand its contents, resultantly he could not respond as required by them. Furthermore, the alleged charge for misappropriating the amount temporarily itself shows that it was not misappropriation of money and giving the money by the account holder to the workman was a personal matter. Accordingly the workman prayed to set aside the impugned order dated 28-2-2000 with consequential benefits.

5. The management of the bank has denied the allegation of the workman that he was not given proper opportunity for his defence and the proceedings were conducted ex-parte and has submitted that the enquiry proceedings were conducted in accordance with the principles of natural justice giving full and proper opportunity to the workman for his defence. However, it was the workman who did not avail the opportunity and the Inquiry Officer was to proceed the inquiry ex-parte. As regard use of English language in various correspondences/memos etc. of the bank, it has been submitted by the Bank that the reply to the charge sheet by the workman is in English, therefore, the contention as to usage of English language is not tenable. Accordingly, the management of the Bank has prayed that the claim of the workman's union be rejected without any relief being extended to the workman concerned.

6. The workman's union has filed rejoinder whereby it has only reiterated its averments in the statement of claim and has introduced nothing new.

7. The management of the Bank submitted photo copy of the entire enquiry proceedings in support of their respective case. Following preliminary issue were framed on 8-10-2002 by the Tribunal :

(i) Kya vibhagiya jaanch naisargik nayaay ke niyamon ke anuroop the athva nahi?/trutipurn hai athva nahi ?

(ii) Kya janch अधिकारी द्वारा दी गई आख्या दुराग्रहपूर्ण (perverse) है ? अथवा नही ?

8. The workman examined himself whereas the management examined Shri R. K. Garg, Sr. Manager in support of their stand on preliminary issue. After hearing arguments of the parties, preliminary issues were decided in favour of the management vide order dated 30-3-2006, which reads as under :

"In the circumstances both the issues are decided against the workman and in favour of the management and it is held that the departmental enquiry was conducted in

accordance with principle of natural justice and the enquiry proceedings are proper and the enquiry report is not perverse."

9. Accordingly, the case was listed on 26-6-2006 for evidence of the parties for disposal of the case but due to absence of the workman and his authorized representative the case proceeded ex-parte against the workman and the management also declined to produce any witness. Resultantly, the case was listed for arguments.

10. Heard learned representatives of the parties and perused entire material on record.

11. The learned representative on behalf of the workman's union has contended that the workman was a part time sweeper in the Bank, he was not holding an office of trust and he was not performing any duty pertaining to money matters. He was serving the Bank for about eight years without any complaint. The punishment imposed vide impugned order is disproportionate and harsh looking into the alleged misconduct and it will also effect his all family. He has further contended that the workman has not misappropriated the money entrusted to him but delayed in depositing the money in account of Manju Sharma. The amount of Rs. 500/- was given by her for depositing in her saving bank account, but she was in hurry and did not give her account number and pass book to the workman on 12-8-97. In such circumstances, the amount could not be deposited timely. The matter is totally connected with private affairs. The learned representative has contended that under Section 11 A of the Industrial Disputes Act, 1947 the Tribunal has power to set aside the impugned order. He has requested that some minor punishment may be imposed keeping in view the facts of the matter. He has relied 2005 Lab 2160 (Kerala) High Court.

12. Per contra, the learned representative on behalf of the Bank has urged that workman has committed gross misconduct of doing an act prejudicial to the interest of the Bank. It is clear case of lack of confidence of bank management in the workman who cannot be retained in service. Hence order of removal is quite just. He has placed reliance on following case laws :

- (i) 2003 (3) SCC 583
- (ii) AIR 1997 SC 3571
- (iii) 2009 (4) SCC 225

13. Thus, the question under consideration is as to whether the punishment of dismissal imposed on the workman is disproportionate looking to the charge against the workman found to be proved. I have given my thoughtful consideration on rival submission of both sides on above the point. The workman was charge sheeted for gross misconduct under clause 19.5 of the Bipartite Settlement for alleged misconduct. It has been alleged in the charge sheet that workman committed an act which was prejudicial to the interest of the Bank under clause 19.5 of the said settlement. Gross misconduct has been defined under clause 19.5 and 19.6 punishments for gross

misconduct have been enumerated as under :

"19.6 An employee found guilty of gross misconduct may :

- (a) be dismissed without notice; or
- (b) be warned or censured, or have an adverse remark entered against him; or
- (c) be fined; or
- (d) have his increments stopped; or
- (e) have his misconduct condoned and be merely discharged."

14. Minor misconduct has been defined in clause 19.7 as an act or omission on the part of an employee including attempt to collect or collecting moneys within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force.

15. The contention of the learned representative on behalf of the workman is that act of alleged misconduct of the workman comes within the minor misconduct as defined in clause 19.7 (g); whereas learned representative of the management has urged that the act of the alleged misconduct of the workman is gross misconduct.

16. Section 11 A of the I.D. Act empowers the Tribunal to set aside the order of discharge or dismissal, if, found not justified and to give direction for reinstatement of the workman and to give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal and the circumstances of the case may require. Since the question regarding validity of the impugned order has already been decided in favour of the management vide tribunal's order dated 30-3-2006 and only question regarding quantum of punishment is under consideration, there is no need to go into the merits of the case only it is to be seen whether the punishment of dismissal imposed on the workman is disproportionate to the alleged misconduct under clause 19.5 of the bipartite settlement. In case laws which have been referred by the learned representative on behalf of the management, the matter pertaining to harsh punishment under Section 11 A of I.D. Act was not under consideration. In AIR 1997 SC 3571 Hon'ble Apex Court has observed that where no irregularity alleged nor charges framed are contrary to any law, Tribunal cannot go into correctness of charges. In (2003) 3 SCC 583, the matter under consideration was scope of judicial review of High Court under Article 226. In said case Hon'ble Apex Court has observed that in the matter of Domestic Inquiry High Court does not act as an appellate authority. In (2009) 4 Supreme Court Cases 225 appellant was compulsorily retired on account of failure to file property returns under Armed Forces Air Force Act, 1950. In this matter Hon'ble Apex Court observed that power of court to interfere with quantum of punishment is extremely restricted. Court can direct reconsideration only when relevant factors have not been considered. But in the

present matter under section 11 A of the I.D. Act, it is within the purview and scope of the Tribunal to consider whether the punishment imposed is disproportionate or harsh and Tribunal is also empowered to award any lesser punishment in lieu of discharge or dismissal taking into the consideration the circumstances of the case.

17. Admittedly, the workman was a part time sweeper. It was not part of his job to receive and deposit the amount in the accounts of the customers of the Bank. He had not received the amount of Rs. 500/- from the customer Manju Sharma while acting and purporting to act in discharge of his any official duty to receive and deposit the amount of customer. He was working as part time sweeper for eight years.

18. In 2005 Lab. I.C. 2160, the petitioner was working as machinist, in a public sector undertaking, was caught by security personnel when he was trying to taken out 1.75 liters of oil in tool box of his scooter. He was found guilty of misconduct of theft and he was dismissed from service. Hon'ble Kerala High Court observed that the workman was not holding an office of trust, he was an ordinary worker. He was engaged in factory as machinist. His qualification will normally, be a pass in the ITI Trade Certificate, therefore, having regard will all aspects, punishment of dismissal was not justifying having regard to nature of offence and imposed a punishment of suspension for three years and directed reinstatement of workman after three years.

19. A dismissal order has serious consequences; therefore, it should be imposed only keeping in view the gravity and magnitude of alleged charges. The totality of circumstance has to be considered. In present case the charges of alleged misconduct of the workman is not such which warrants harsh punishment of dismissal. The punishment of dismissal seems to be disproportionate looking to the charges proved against the workman. Having regard to the nature of job of the workman and nature of alleged charges for which he has been found guilty, nature of punishments other than dismissal enumerated for gross misconduct under clause 19.6 of the Bipartite Settlement i.e. warning, censure, fine, stoppage of increment, and other entire facts and circumstances of the case the interest of justice would be subserved if instead of punishment of dismissal the workman be punishment for lesser punishment i.e. withholding of two grade increments with cumulative effect and reinstating him without order for back wages.

20. In view of the above discussion, the action of the management of Syndicate Bank in imposing the punishment of removal from service vide impugned order dated 24.3.2000, is not justified to the extent of the punishment imposed. The impugned order is modified in lieu of dismissal, lesser punishment of withholding of two grade increments with cumulative effect is imposed on the workman. The workman be reinstated without back wages

within eight weeks of publication of the award. The reference is answered accordingly.

21. Award as above.

N. K. PUROHIT, Presiding Officer

Lucknow,
15-06-2009

नई दिल्ली, 25 जून, 2009

का. आ. 2010.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक, चण्डीगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 5/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2009 को प्राप्त हुआ था।

[सं. एल-12012/105/2008-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2010.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2009) of the Central Government Industrial Tribunal/Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Punjab & Sind Bank, Chandigarh and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12012/105/2008-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH.

Case No. I. D. 5/2009

Sh. Surinderpal S/o Shri Daya Ram, VPO-Kalanaur, Mohalla, New Katra, Tehsil & Distt. Gurdaspur. ... Applicant

Versus

The Zonal Manager, Punjab & Sind Bank, ... Respondent
Gurdaspur.

APPEARANCES

For the workman : None

For the management : None

AWARD

Passed on : 1st of June 2009

Central Govt. vide notification No.-L-12012/105/2008-IR(B-II), dated 24-3-2009 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Punjab and Sind Bank in terminating the services of Shri Surinder Pal w.e.f. 16-12-2006 without following the provision of section 25F and 25G of the industrial dispute Act 1947 is legal and justified. What relief the workman is entitled to and to what extent.

2. None is present on behalf of the workman. None is present on behalf of the management. On receipt of the reference from the Central Govt., the notice was issued to the workman for 14-5-2009. None appeared on behalf of the workman on 14-5-2009 and again a registered notice was issued for today. Registered notice for today was received back with a report not available. There is no other address of the workman in the reference and it is not possible to serve the workman on this address. Therefore, the present reference is returned as such to the Central Govt. for want of prosecution. Central Govt. be informed. File be consigned.

Chandigarh.
1-6-2009

G. K. SHARMA, Presiding Officer

नई दिल्ली, 25 जून, 2009

का. आ. 2011.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक, इंदौर, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-1, इंदौर के पंचाट (संदर्भ संख्या 109/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-06-2009 को प्राप्त हुआ था।

[सं. एल-12012/122/1998-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2011.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 109/1999) of the Central Government Industrial Tribunal/Labour Court, No. 1 Indore now as shown in the annexure in Industrial Dispute between the employers in relation to the management of Punjab National Bank, Indore and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12012/122/1998-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/109/99

PRESIDING OFFICER: Shri Mohd. Shakir Hasan

Shri Umesh Chandra Pathak,
50, Bhamori Dube,
Indore (MP)

... Workman/Union

Versus

The Regional Manager,
Punjab National Bank,
Regional Office, 20, Sneh Nagar,
Indore

... Management.

AWARD

Passed on this 10th day of June, 2009

1. The Central Government of India, Ministry of Labour vide its Notification No. L-12012/122/98/IR (B-II) dated 25-2/4-3-99 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the management of Regional Manager, Punjab National Bank in terminating the services of Shri Umesh Chandra Pathak w.e.f. 5-4-97 is justified. If not, to what relief the workman is entitled for?"

2. The case of the workman Shri Umesh Chandra Pathak in short is that he was appointed initially as a peon on 23-3-85 and was posted at Punjab National Bank, Dewas. Subsequently he was promoted and was working as clerk-cum-cashier at Punjab National Bank, Khokrakalam Branch, Distt. Shejapur. It is stated that on 27-10-96, he received information about the serious illness of his wife at Indore and he went there on 28-10-96. His wife is said to have been admitted in the hospital on 30-10-96 and she remained there till 14-11-96. Again she was hospitalised on 25-12-96 and remained there till 20-1-97 and again from 2-2-97 to 9-2-97. It is stated that the workman also become ill from 20-1-97 and was admitted in the hospital from 22-1-97 to 1-2-97 and again admitted from 6-3-97 to 13-3-97 and from 11-4-97 to 17-4-97 and was under the treatment of the Doctor of Bapat Hospital, Indore. It is stated that the workman had sent two leave applications by post on 30-10-96 and 20-1-97 but the same were not considered by the Branch manager, Khokrakalam, Distt. Shejapur, nor any intimation of rejection was given to him. The management is said to have not issue/served any show cause notice to the workman at his address and suo-moto the Regional Manager took a decision to treat the workman as voluntarily retired. It is stated that the termination order dated 7-4-97 passed by the Regional Manager was received by the first party on 17-4-97 when he returned from the Hospital. It is denied that the notice of show-cause dated 27-1-97 was ever received by him and the notices published in local newspapers on 6-3-97 and 7-3-97 were never read by him. It is also alleged that the workman was terminated without any enquiry or chargesheet and Vth Bipartite Settlement was never displayed on the notice board of Branch Office. It is also alleged that the provision of ID Act was also complied with. The workman also filed appeal but the same was rejected by the management on 13-10-97. It is also stated that the punishment is harsh and excessive. On these ground, it is submitted that the order dated 7-4-97 be set-aside and the workman be reinstated with back wages and costs of the suit.

3. The management has filed Written Statement in the case. The case of the management, inter alia, is that the

service conditions of the Bank staff in the Banking Industries are governed by the provision of Shastri Award, Desai Award and various Bi-partite settlement. It is admitted position between both the parties that applicant Umesh Chand Pathak was governed by the Service conditions of Para 17(a) of the Vth Bipartite settlement. It is stated that Shri Pathak while working as clerk-cum-cashier in Punjab National Bank at Khokrakalam Branch absented from duties from 28-10-96 without any information and application for leave. A notice dated 27-1-97 through registered post as well as UPC were sent to join on his duties within 30 days but he did not join on his duties nor had submitted any explanation of his absence. It is stated that for giving another opportunity to Shri Pathak, the notice was published on 6-3-97 in two local newspapers to report within 30 days on duty. Shri Pathak neither reported on his duties nor submitted any explanation in response of the notices published in the local newspapers. Thereafter in terms of clause 17(a) of the Bipartite settlement, the Competent authority vide letter dated 7-4-97 treated him having voluntarily retired from the service of the Bank w.e.f. 5-4-97. It is stated that there was no provision on any appeal against the voluntary retirement of the employee under the Vth Bipartite settlement. It is submitted that the voluntary retirement of Shri Pathak is legal and justified and he is not entitled to any relief.

4. On the basis of the pleadings of both the parties, the following issues are settled on recast for adjudication.

- (i) Whether the conditions of clause 17(a) of Vth Bipartite settlement were fulfilled before treating the workman Shri Pathak as voluntarily retired w.e.f. 5-4-97?
- (ii) If yes, whether the action of the management in terminating the service of Shri Pathak is justified?
- (iii) To any other relief, the workman is entitled?

5. Issue No. 1 :

It appears from the pleading of the workman that he has not denied the existence of clause 17(a) of 5th Bipartite settlement which is filed by the management and is marked as Exhibit M/1 which appears to be a complete code. He has merely raised a point that the 5th Bipartite settlement was not known to the workman and it was not properly displayed on the notice board of the said branch of the Bank. This fact appears to be not true because the workman has himself filed circular No. 1716 dated 5-4-2000 which is Paper Nos. 14/23 to 14/32. This is filed to show that clause 17(a) of 5th Bipartite settlement is deleted. This modification in 5th Bipartite settlement is not applicable in this case because this amendment took place on 5-4-2000 where as he was deemed to be voluntarily retired before i.e. on 5-4-97. As such, it is clear that the workman had knowledge about the Bipartite settlement. Moreover it appears that the workman has raised this plea at a belated stage. He is said to have filed appeal and representation before the higher authority of the Bank. He has filed the said memo of appeal and representation on dated 7-5-97 and 27-8-97 which

are Paper Nos. 14/7 to 14/18 and 14/19 to 14/21. There is nothing in these appeal and representation that he had no knowledge about 5th Bipartite settlement. This plea appears to be after thought. Thus the fact that the 5th Bipartite settlement was in existence between the Bank and the workman is not in dispute about the knowledge of the said settlement and the workman was all along aware about the legal position and consequences of the said settlement.

6. It is an admitted position that the workman Shri Pathak absented himself for a period of more than 90 days without submitting any application for leave. It is admitted position that the workman Shri Pathak absented himself for a period of more than 90 days without submitting any application for leave. It is admitted position that the workman Shri Pathak absented w.e.f. 28-10-96. After 90 days, i.e. on 27-1-97, the management Bank issued notice to the workman which is marked as Exhibit M/2. The workman has alleged that he had not received any show cause notice. The Bipartite settlement shows that the management may at any time thereafter give a notice to the employee at his last known address. It is clear that after 90 days, the management may send notice at his last known address. The management has filed photocopy of the notice which is marked as Exhibit M/2. The photocopy of registration receipt is also filed to show that the show cause notice was sent through Registered Post which is marked as Exhibit M/3. The management has also filed receipt of Under Certificate of Posting which is marked as Exhibit M/3A. This also shows that the show cause notice was also sent through post in addition. The said notice and receipt show that it was sent on the address of 133/2, Bhamori Bazaar, Ludhiana. The important question of the bipartite settlement is that the notice is to be sent at his last known address. The management case and the evidence of the management witness show that the notice was sent on the last known address of the applicant. This fact is also substantiated from the documents filed by the applicant himself. Exhibit P/1, P/3, P/5, P/7, P/9 and P/11, the alleged discharge cards are filed by the applicant workman. These papers show that the address is same as on which show cause notice was sent to the applicant. This it is established that the notice was sent by registered post on the last known address where the applicant was admittedly living at the relevant time. This part of the ingredient of the Bipartite settlement is proved beyond doubt.

7. It is an admitted fact that the applicant had not reported on duty within 30 days of the said show cause notice. The case of the applicant is that he had sent application for 1 1/2 month leave on 30-10-96 on the ground of illness of his wife under Certificate of Posting and again an application for extension of leave on 20-1-97 under Certificate of Posting. It is stated by the applicant that his wife was hospitalized and he was also hospitalized and therefore he did not reported on duty. Discharge cards of the Bapat Hospital and receipts are filed by the applicant which are marked as Exhibit P/1 to P/13 and a Certificate of the Doctor which is marked as Exhibit P/14. The case of the management is that no application for leave was ever

received by the non-applicant. The burden is on the applicant to prove that the application was sent on the ground of illness of his wife and of himself. Firstly the alleged application for leave was not sent by registered post. Secondly the address on the certificates were different as on the discharge cards. Thirdly the alleged leave applications and UPC (Papers No. 17/2 to 17/5) show that the medical certificate was not attached with the application. Lastly the copies of the applications of leave are submitted in court at a belated stage on 23-11-2004. The Doctor is also not examined to support the illness. All the above circumstances clearly show that the documents filed by the applicant to substantiate the ground of his absence from duty are not reliable. It is not out of place to say that from the basis of the documents filed by the applicant, it appears that from 15-11-96 to 24-12-96, from 10-2-97 to 5-3-97 and from 14-3-97 to 10-4-97, there is no discharge cards and the applicant was not ill. There is no explanation as to why the applicant had not reported on duty during those days. The above discussion clearly show that the applicant has failed to discharge his burden that there was reasonable ground for his absence within the period of about six months. The management appears to be reasonable satisfied that the applicant had no intention of joining duties.

8. It is argued on behalf of the applicant that notices were also published with local news papers which are marked as Exhibit M/4 and M/5 when the management was fully knowing well that the applicant was living at Indore because the Registered notice was sent to Indore. It is submitted that notice was not properly served. I do not agree with the view of the learned Counsel for the applicant because as per Bi-partite settlement, the show-cause notice was to be sent at his last known address. The show-cause notice through registered post and UPC were sent at the address of Indore. The above discussion clearly proves that the notice of show-cause was sent at the correct last known address. The show-cause notice published in the local news-paper will not create any lacune in the case of the management. Thus it is established that the non-applicant management has complied the requirements of clause 17(a) of the Bipartite settlement and the applicant workman has failed to prove that he was prevented with reasonable cause to report on duty within 30 days of the notice.

9. The management has relied a decision reported in (2005) 5-S.C.C. 337, Viveka Nand Sethi versus Chairman, J & K Bank Ltd., & others wherein the Hon'ble Court has held that—

“Mere sending of an application for grant of leave much after the period of leave was over as also the date of resuming duties cannot be said to be a bonafide act on the part of the workman. Opportunities after opportunities indisputably had been granted to the workman to explain his position but he chose not to do so except filing applications for grant of medical leave and that too without annexing proper medical certificate. In the aforementioned fact situation there is no reason as to why the Bank could

not arrive at a satisfaction that the workman had no intention to join his duties.”

10. In the instance case, the applicant had also not attached medical certificate and the applicant for leave is alleged to have been sent by ordinary Dak. The management appears to have given sufficient time to resume his duties. Thus the above cited decision appears to be applicable in the case. This issues is answered in favour of the non-applicant and against the applicant/workman.

11. Issue No. 2 & 3 :

It is clear from the above discussion that the action of the management was in accordance with the Bipartite settlement. It is argued on behalf of the applicant that the punishment was harsh and excessive. From the Bipartite settlement, it appears that it is not a termination. Rather it is more an act of the applicant workman himself. The management has to come to the conclusion that the workman has no intention of joining duties and thereafter it will be deemed that the workman has voluntarily retired from the Service after expiry of the period of the said notice. The counsel for the applicant submitted that the principle of natural justice is violated as the services of the applicant is terminated without hearing the workman. He has relied upon a decision reported in 2009 (120) FLR 608 State Bank of India & others versus Ranjit Kumar Chakraborty & others. This decision appears to be not applicable in the case because firstly it is not a termination. Secondly the action of the management is based on 5th Bipartite settlement which appears to be a complete procedure which was settled by the management and the employee by way of settlement. As discussed above, it appears that the management has fully followed requirements of the said settlement which was also binding on the applicant.

12. The learned counsel for the applicant also urged that the punishment is excessive. He has relied upon decisions reported in 2008(117) FLR 354, PEPSU Road Transport Corporation versus Rawel Singh and 2008 (117) FLR 324 Hindustan Aeronautics Ltd. versus Industrial Tribunal-II, Lucknow and another wherein the workman was terminated on the ground of absence of few days. These rulings are not applicable in the case as it is based on Bi-partite settlement. Thus the management action appears to be justified and the applicant does not entitle any other relief. However he is entitled to retirement benefits as per rules of the non-applicant Bank w.e.f. the date of voluntarily retirement. Accordingly with the above observations, both the issues are decided in favour of the non-applicant management and against the applicant workman.

13. Having regard to the facts and circumstances of the case, the award is passed in favour of the non-applicant/management and against the applicant/workman without any orders as to costs.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 25 जून, 2009

का. आ. 2012.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक, गाजियाबाद के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 02/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2009 को प्राप्त हुआ था।

[सं. एल-12012/174/2004-आईआर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2012.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank, Ghaziabad and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12012/174/2004-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, NO. 1,
NEW DELHI, KARKARDOOMA COURT COMPLEX,
DELHI

L D. No. 2/2005

In the matter of dispute between:

Malkhan Singh S/o Shri Rambir Singh,
R/o Village Sabot Mustafabad,
Bulandshehr, U. P.

Versus

Regional Manager,
Syndicate Bank,
Regional Office, First Floor,
R-1/77, Raj Nagar, Ghaziabad.

AWARD

Malkhan Singh was employed as casual labour in District Lead Branch, Syndicate Bank, Noida, Gautam Budh Nagar, U.P. on 29-12-2000. He was working as Water Boy-cum-Peon and paid Rs. 80 per day. He worked in the Bank till 31-3-2004, the date when aforesaid branch of the bank was closed. On 19-4-2004 he wrote to the Regional Manager, as well as, General Manager of the Syndicate Bank, seeking employment in some other branch of the

Bank. His request was not acceded to. He raised a dispute before the conciliation officer, before whom the management offered to pay retrenchment compensation. He opted not to accept the same. Since conciliation proceedings failed, appropriate Government vide its Order No. L-12012/174/2004-IR (B-II) dated 17-12-2004 referred a dispute to this Tribunal for adjudication, in following terms:

"Whether the action of the management of Syndicate Bank in discontinuance/terminating services of Shri Malkhan Singh son of Rambir Singh employed in District Lead Bank Branch Noida w.e.f. 2-1-2004 without observing provisions Section 25-F, G and H of the Act, 1947 is legal and justified? If not, what relief the concerned workman is entitled to?"

2. Claim statement was filed by the workman pleading therein that he was employed as Water Boy-cum-Peon since 29-12-2000 at District Lead Branch, Syndicate Bank, Noida, Gautam Budh Nagar, U.P. His last drawn salary was Rs. 2400 P.M. However, he was paid Rs. 80 per day for actual working days. No wages were paid to him for Sundays and Holidays. He was doing office work including cleaning of office, filing work, local delivery of notices and serving water to officials of the bank as well as visitors. He requested for benefits such as bonus, minimum wages and other benefits under the law. To his utter surprise when he pressed his demands for above benefits, he was not allowed to join duties on 1-4-2004. He approached management time and again and requested them to permit him to join duties but to no avail. However, he used to report for duty every day but was not allowed to join his duties. Management has terminated his services wrongfully, without giving him notice pay and retrenchment compensation, besides other benefits attached to his services. He was also not paid wages for weekly holidays. His signatures were obtained on various bank vouchers, blank paper and letter head etc. He was thrown out ignoring legal provisions of Section 25-F of the Industrial Disputes Act, 1947. (in short the Act). Not allowing him to work tantamounts to his retrenchment, as per Section 2(oo) of the Act. His services were summarily terminated without following requisite provisions of Sections 25-F, G and H of the Act. Management has not followed the principles of last come and first go. He sent demand notice on 3-5-2004, but it was not complied with by the management. He is unemployed since the date of his illegal termination. He could not get gainful employment despite his best efforts. He claims reinstatement in service with full back wages and continuity of service, besides arrears of pay and other benefits.

3. Management contests the claim pleading that Malkhan Singh was engaged at their Lead District Office, Noida for the purposes of fetching water to office. He was engaged on daily Coolie post and paid by, debiting to general charges head of accounts and

not by debiting establishment expenses, as done in the case of regular employee. His work was totally independent and not controlled or supervised by the officials of the bank. He was paid coolie charges for the day he worked. It was contract for service and not contract of service. No appointment letter was issued nor he was recruited by following prescribed procedure and rules of recruitment. He was engaged purely for casual work on daily wage basis. Since the office where the workman was supplying water was closed on 31-3-2004, he stopped coming from 1-4-2004. Being a casual employee, concept of retrenchment was not attracted to his case. It was claimed that bank offered to pay compensation to him during conciliation proceedings on 20-7-2004, but he declined to accept it. The Management prayed that claim of the workman may be dismissed.

4. On perusal of the pleadings of the parties following issues were settled :

1. As in terms of the reference.

2. Relief.

5. The workman tendered his affidavit in his evidence on 8-11-2006. He was cross-examined by the management on 6-2-2007.

6. From 5-4-2007 and onwards management opted to abandon the proceedings. Hence the management was proceeded *ex parte* vide Order dated 4-10-2007.

7. Arguments were advanced by the workman in person. None came forward on behalf of the management to present their point of view. I have given my careful considerations to the contentions raised by the parties and cautiously perused the record. My findings on issues involved in the controversy are as follows:

Issue No. 1.

8. Workman swears that he was appointed by the management as a Water Boy-cum-Poon since 29-12-2000 at District Lead Branch, Syndicate Bank, Noida, Gautam Budh Nagar, U.P. His last drawn salary was Rs. 2400 PM. However, he was paid Rs. 80 per day and no wages were paid for Sundays and Holidays. He was drawing his salary from the management, vide debit slips photo copies of which are Ex. WW1/2 (photo copies of 42 slips are collectively exhibited as Ex. WW1/2). He had been cleaning the office, filing work, local delivery of notice and providing water to officers of the bank as well as to the visitors, photo copy of letter dated 19-2-2003 issued by the Lead Branch, Noida is Ex. WW1/3. Another written by the manager of the said bank to General Manager is Ex. WW1/4. On 1-4-2004 when he went to his duties he was not allowed to join the same. Thereafter he approached the management and requested for joining the duties either at the Lead Branch or at any

other branch of the bank but he was not allowed for the same. He addressed letter dated 19-2-2004 to Regional Manager as well as General Manager, Syndicate Bank, copies of which are Ex. WW1/6 and Ex. WW1/7 respectively. He has been thrown out by the management, ignoring legal provisions of law, specially of Section 25-F of the Act. Acts of the management tantamounts to retrenchment, as defined in Section 2(oo) of the Act. His services were summarily terminated without following the provisions of Section 2(oo), 25-F, G and H of the Act. He is unemployed ever since the date of his illegal termination.

9. Out of facts projected by Malkhan Singh and those contained in letters Ex. WW1/6 and Ex. WW1/7 it emerges over the record that Malkhan, Singh joined District Lead Branch, Syndicate Bank, Noida, as Water Boy-cum-Poon on 21-12-2000. He was paid Rs. 80 per day for actual working days, without making payment for Sundays and Holidays. He performed his duties till 31st of March, 2004. Therefore, out of these facts it came to light that Malkhan Singh had rendered continuous service for more than 240 days in a calendar year and is deemed to have been in continuous service of the management for one year, as contemplated by sub-section (2) of Section 25-B of the Act.

10. Question for consideration comes as to whether the workman Malkhan Singh is entitled for protection under the Act, while being a casual employee. "The Apex Court, in Suresh Kumar Verma (AIR 1996 SC 1565), was confronted with case of an employee who was appointed on daily wages. It was ruled therein that an appointment on daily wages cannot be substitute for regular appointment which could be a back door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for class IV employees recruited according to rules is a pre-condition. Only work-charged employees who perform the duties of transitory nature are appointed not to a post but rather require to perform the work of transitory and urgent nature so long the work exists. One temporary employee cannot be replaced by another temporary employee.

11. In Suresh Kumar Verma (supra) the Apex Court was construing the provisions of Article 16 and 309 of the Constitution of India. Industrial jurisprudence was not taken into account by the Apex Court while adjudicating with the said case. In that case rules of substantial appointment were taken into account when above propositions were laid. Herein the case the workman since protection of the Act. Facts of Suresh Kumar Verma are distinct and different than the present controversy.

12. In Himanshu Kumar Vidhyarthi [AIR 1977 SC 3657 (1)] the Apex Court considered case of five employees who were appointed on daily wages basis

and ruled that every department of the Government cannot be treated to be "Industry" when the appointments are regulated by the satisfactory rules, the concept of Industry to that extent stands excluded. The court considered that the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. Under these circumstances, their disengagement from service cannot be considered to be retrenchment under the Industrial Disputes Act. The concept of "retrenchment" therefore, cannot be stretched to such an extent as to cover these employees. Ld. Counsel for the petitioners seeks to contend that in the High Court petitioners did not contend that it is a case of retrenchment but termination of their services is arbitrary. Since they are only daily wage employees and have no right to the posts, their disengagement is not arbitrary.

13. In Himanshu Kumar Vidyarthi (supra) the Apex Court ruled that the management where the daily wagers were employed was not an "Industry". Therefore, the facts of the said case are not relevant to the present controversy. Herein workman was an employee of Distt. Lead Branch, Syndicate Bank, Noida, which answers the definition of industry contained in clause (j) of Section (2) of the Act. The Distt. Lead Branch of Syndicate Bank otherwise answers the triple test of systematic activity, co-operative between the employees and employer and production of goods and services for to its customers. Consequently the management is an "industry" within the meaning of clause (j) of Section (2) of the Act, which fact makes the controversy herein different and distinct than that which was before the Apex Court in Vidyarthi case.

14. In Bhurkunda Colliery case [2006 (2) JTI] the Apex Court was concerned with a case where in issue of regularisation of 125 casual labours was raised. Relying the precedent in Piara Singh [1992(4) SCC 118], the Apex Court ruled that so far as the work charged employees and casual labours are concerned, the efforts must be to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications, if any prescribed for the post and subject also to availability of work, if a casual labour is continued for a fairly long spell say two or three years — a presumption may arise that there is a regular need for his services. In such a situation, it become obligatory for the authority concerned to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person.

15. In Bhurkunda Colliery case the Apex Court dwelt upon the industrial jurisprudence and announced that it seeks to evolve a rational synthesis between conflicting scheme of the employers and employees. In

finding out solutions to industrial disputes great care is always taken, as it ought to be, to see that the settlement of industrial dispute does not go against the interest of the community as a whole. Therefore, in Bhurkunda Colliery case, the Apex Court considered the case of casual labours and issued instructions for their regularisation.

16. Sub-clause (s) of Section 2 of the Act defines workman as follows:

(s) Workman means any person (including an apprentice) employed operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person.

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957), or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who being employed in a supervisory capacity, draw wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

17. The aforesaid definition nowhere make any distinction between casual workers and other workers. The definition is wide enough even to include casual workmen. A casual workman getting pay for the week by working for six consecutive days and also entitled to pay for the day when he reported for work but no work was offered to him was held to be a workman in case of Tapan Kumar Jana (1980 Lab.I.C. 508). Law to this effect was also laid by the Apex Court in Krishna Karup (1987 Lab. LC. 32).

18. Herein the case Malkhan Singh was employed as a casual labour, who continuously worked with the management for more than 240 days in a calendar year. He answers all ingredients of the definition of workman given in the Act and when he rendered continuous service for 240 days in a calendar year he gets protection under the Act. Malkhan Singh claims that his services were dispensed with on 1-4-04, when he

reported for his duties. He wrote letters to Regional Manager as well as General Manager of the bank, copy of which are Ex. WWI/6 and Ex. WWI/7 respectively. When these letters were perused, it came to light that Distt. Lead Branch, Syndicate Bank, Noida, was closed. Malkhan Singh asked Regional Manager as well as General Manager of Syndicate Bank for job in some other branch of the bank. Therefore, it is emerging over the record that on 31-3-04 Distt. Lead Branch, Syndicate Bank, Noida was closed.

19. Provisions of Section 25-FFF of the Act provides for the situation where an industrial undertaking; has been closed. It speaks that in the event of closer, a workman is entitled to notice and compensation in accordance with the provisions of Section 25-F of the Act, as if he has been retrenched. However, in the case of closer payment of retrenchment compensation before that closer is not compulsory. The Apex Court in Isha Steel Treatment, Bombay (AIR 1987 S.C. 1478) ruled that in a case of closer workman is entitled for notice and retrenchment compensation. However, payment of retrenchment compensation prior to the closer of the Unit is not mandatory. Payment of compensation and payment of wages for the notice period is not a condition precedent to the closer. Therefore, it is emerging over the record that when the undertaking was closed by the management, in that situation the workman is entitled only for notice and retrenchment compensation in terms of the provisions of Section 25FFF of the Act. Therefore, Malkhan Singh was entitled to notice as well as retrenchment compensation in accordance with the provisions of Section 25-F of the Act. Section 25-F of the Act contemplates that workman has to be given one months notice or wages in lieu of notice period, besides retrenchment compensation. Therefore, in this case Malkhan Singh is entitled for one months notice pay and one and a half month pay as retrenchment compensation for three years service rendered by him. Consequently it is concluded that discontinuance of the service of Malkhan Singh from 1-4-04 was on account of closer of the industrial undertaking of the management and not in violation of the provisions of Sections 25-F, G and H of the Act.

Relief

20. As held above, in the case of closer of an industrial undertaking, workman is to be given notice or notice pay in lieu thereof and retrenchment compensation. Payment of notice pay and retrenchment compensation can be made even after the closer of industrial undertaking. In view of these findings, it is held that Malkhan Singh is entitled for notice pay and closer compensation, as referred above. Reference is answered accordingly.

Dated : 13-5-2009 Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 25 जून, 2009

का. अ. 2013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक, मुंबई के प्रबंधन के संबंध निरोधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय सं.-2, मुंबई के पंचाट (संदर्भ संख्या 2/3 का 2008) को प्रकटित करती है, जो केन्द्रीय सरकार को 25-06-2009 को प्राप्त हुआ था।

[सं. एल-12012/119/2006-आई.आर. (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2009

S.O. 2013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/3 of 2008) of the Central Government Industrial Tribunal-cum-Labour Court, No.-2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank, Mumbai and their workman, which was received by the Central Government on 25-6-2009.

[No. L-12012/119/2006-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

Present : A. A. Lod, Presiding Officer

Reference No. CGIT-2/3 of 2008

Employers in Relation to the Management of Canara Bank

The Manager
Canara Bank,
571, Sadashiv Peth,
R.O.
Pune-411030

and

Their Workmen
Shri V.G. Gailwad
484, Ghorpadi Peth (Zogade Wadi)
Near PMT Bus Depot
Pune.

APPEARANCES

For the Employer : Mr. S.V. Alava
Advocate

For the Workmen : No appearance

Mumbai, dated 27th, April, 2009

AWARD

The Government of India, Ministry of Labour by its Order No. L-12012/119/2006-IR (B-II) dated 14-12-2007 in exercise of the powers conferred by clause (d) of sub-

Section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management in imposing the penalty of dismissal on Shri V.G. Gaikwad, a part time employee on daily wages w.e.f. 25-2-2005 is legal and just. If not to what relief the concerned workman is entitled to?”

2. As per reference, notices were sent to both parties and *vide* Ext. 9 notice served on second party but he remained absent. Even Roznama reveals that second party was intimated time and again but not reporting in the reference. So it led me to pass the following order :

ORDER

Reference is disposed of for want of prosecution.

Dated : 27-4-2009

A.A. LAD, Presiding Officer

नई दिल्ली, 26 जून, 2009

का. आ. 2014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द साउथ इंडियन बैंक लिमिटेड, प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, एर्नाकुलम के पंचाट (संदर्भ संख्या 255/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2009 को प्राप्त हुआ था।

[सं. एल-12012/157/2001-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th June, 2009

S.O. 2014.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 255/2006) of Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the Management of The South Indian Bank Limited and their workmen, received by the Central Government on 26-6-2009.

[No. L-12012/157/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri. P.L. Norbert, B.A., LL.B., Presiding Officer
(Monday the 8th day of June, 2009/18th, Jyaishta, 1931)

I.D. No. 255 of 2006

(I.D. No. 57/2001 of Industrial Tribunal, Alappuzha)

Workman :

Sri. C. Suresan Pillai,
Indira Mandiram, Thevalakkara,
Kollam District, Kerala State.

By Adv. Sri. P.B. Suresh Kumar.

Management :

The Chairman,
The South Indian Bank Limited,
Administrative Office, SIB House,
Mission Quarters, P.B. No. 28,
Thrissur-680 001.

By Adv. Saji Varghese.

This case coming up for hearing on 4-6-2009, this Tribunal-cum-Labour Court on 8-6-2009 passed the following :

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the action of the management of the South Indian Bank Ltd., Thrissur in relation to their Karunagappally Branch in dismissing the services of Shri C. Suresan Pillai, Peon w.e.f. 7-12-1998 is justified? If not to what relief the workman is entitled to?”

2. The facts of the case in brief are as follows :—

The workman Shri C. Suresan Pillai was a Peon of Karunagappally Branch of South Indian Bank. While so, he was charge sheeted on 19-6-1998 for unauthorised absence exceeding 30 days continuously. An explanation dated 3-7-1998 was submitted by the workman. That was not satisfactory to the management. Hence, the management ordered enquiry. The workman appeared with defence representative. In the enquiry the workman was found guilty of the charges. A copy of the report was given calling for his remarks. Thereafter punishment was proposed and the workman was given chance for personal hearing. The disciplinary authority dismissed him from service as per order dated 17-9-2005. Though the workman filed appeal he did not succeed.

3. According to the worker the Enquiry Officer had not complied with the principles of natural justice. Sufficient opportunity was not given to cross examine the management witness. He was not given copies of documents properly. He had applied for leave whenever he was absent. It is due to his illness that he remained absent. Though he filed two appeals to the bank authorities they were not properly considered.

4. In the light of the above contentions the following points arise for consideration :—

- (1) Whether sufficient opportunity was given to the worker in the enquiry to prove his innocence?
- (2) Are the findings sustainable?
- (3) Is the punishment proper?

The evidence consists of the oral testimony of MW1 and Exts. M1 and M2 on the side of the management and WW1 on the side of the workman.

5. Point No. 1: Though the learned counsel for the workman did not seek for a separate finding on the question of validity of enquiry as a preliminary issue still for the purpose of completeness, this issue is also considered. Though the worker has a contention that principles of natural justice were not complied and he was not given sufficient opportunity to defend, the proceedings in the enquiry does not support this contention. The workman was defended by a defence representative. Both workman and defence representative were present during enquiry. The Manager of the Branch was examined in the enquiry as MW1. He was cross-examined. The documents were marked as Exts. M1 to M-12 without objection. The proceedings does not reveal that the workman had sought time to go through the documents for the purpose of cross examination of MW 1. It is contended by the worker that the documents were produced by the management on the day of the enquiry and he was given copies of documents only just prior to the commencement of enquiry. But no such objection is seen raised at the time of the enquiry as per proceedings. At any rate he had not submitted any objection in writing. Besides according to the management late production of documents has sprung no surprise on the workman as the documents were already known to the workman except Ext. MEX-1. It is a letter sent by Chief Manager to the Head Office reporting about the unauthorised absence of the worker. Ext. MEX-2 is copy of leave rules. Ext. MEX-3 is a relevant portion of the Bipartite Settlement. Ext. MEX-4 is copy of attendance register. Ext. MEX-5 is copy of relevant portion of subsequent Bipartite Settlement. Exts. MEX. 6 to 11 are previous disciplinary proceedings and punishments imposed on the workman for similar misconduct of unauthorised absence. Ext. MEX-12 is the copy of charge sheet. Thus documents 2 to 12 are those some of which are already in the possession of the workman being previous disciplinary proceedings against him and others are Leave Rules, Bipartite Settlements and Attendance Register. Absence is admitted. But his only contention is that it is not unauthorised. Thus Ext. MEX-1 alone is a new document so far as the workman is concerned. But it is only a letter reporting about the unauthorised absence by the Chief Manager to the head office. Thus non supply of copies of the documents prior to the commencement of enquiry proceedings cannot cause any prejudice to the workman. Besides no objection was raised by the defence regarding late supply of copies of documents. Though before this court at the time of evidence the workman put forward a contention that he was not given copies of documents, he has no such case in the claim statement. What is stated in the claim statement is that he was not properly given copies of documents (para 4 of claim statement). When enquiry Officer was examined as MW1 he said that copies of documents were given to the worker on the day of the enquiry prior to the examination of the management witness. The Enquiry Officer had invited defence evidence.

However, the defence did not want to examine any witness or produce any further documents other than Exts. DEX-1 and 2. Hence on the same day evidence was closed and parties were given time to make their written submissions. Thus it is seen that the Enquiry Officer had given sufficient opportunity to the defence. There is compliance with the principles of natural justice and the enquiry is not vitiated for any reason.

6. Point No. 2:—Five charges are levelled as per Ext. MEX-12 charge sheet. The first charge is that he remained absent without leave continuously from 9-4-1998 to the date of charge sheet. Ext. MEX-1 is a report of Chief Manager to the head office regarding unauthorised absence. MW1 in Ext. M1 is the Manager. According to him the worker had not applied for leave for the period from 9-4-1998 till the date of charge sheet. In the cross examination no question was put to him as to whether the worker had not applied for leave. But it was argued by the learned counsel for the worker that leave application was submitted whenever the workman was absent. But the management had not communicated to the worker the order in his applications. Hence, it has to be presumed that leave was sanctioned. Ext. MEX-2 is the leave rules. As per the leave rules one has to apply for leave well in advance except in unforeseen and urgent circumstances. It also provides that no leave or extension of leave shall be deemed to have been granted unless an order to that effect is passed and communicated to the employee. Therefore, no presumption can be drawn that leave is granted on the premise that the worker was not conveyed the result of his application for leave. That apart according to the management the worker had not applied for leave since 9-4-1998. Ext. MEX-4 is attendance register. It is seen from the register that for the period from 9-4-1998 to 11-4-1998 no attendance is marked and the columns are blank. But at the margin it is endorsed that on 7-4-1998 the workman was taken into custody by the police. On 13-4-1998 it is noted in the column "leave application". For the period from 15-4-1998 to 18-4-1998 the columns are blank. For the period from 20-4-1998 to 24-4-1998 it is noted "leave". For the period from 27-4-1998 to 13-6-1998 it is noted as unauthorised absence. In Ext. DEX-2 which is reply to charge sheet the workman states that he had applied for leave on 22-4-1998 and for the remaining period he would submit leave application. Though the management does not admit that a leave application was received by the management on 22-4-1998, but assuming that such an application was given still there is no evidence to show that for the subsequent period the worker had applied for leave. Even going by the attendance register the unauthorised absence is from 27-4-1998 to 13-6-1998 exceeding 30 days. As already observed there is no proof of having applied for leave for this period. Thus the first charge of absence without leave stands proved.

7. The second charge is that the workman remained absent continuously exceeding 30 days falling within

Clause 19.5(p) of 6th Bipartite Settlement dated 14-2-1995. Ext. MEX-4 attendance register already referred prove the charge that the worker remained absent without applying for leave and without intimating the bank at least from 27-4-1998 to 13-06-1998. It is a gross misconduct as per Clause 19.5 (p) of the Bipartite Settlement. It is for the workman to show that he had submitted leave application for this period. However, there is no evidence at all. Thus the second charge also stands proved.

8. The third charge is that the workman continued to commit the same kind of misconduct disregarding warning of the management. Exts. MEX-6 to 11 are previous disciplinary proceedings and punishments imposed on the workman for unauthorised absence. He was warned once and increments were stopped twice for the misconduct of remaining absent unauthorisedly. Despite that he remained absent continuously and thus the third charge also is proved. It is considered as an act of wilful disobedience of the directions of the management.

9. Charges 4 and 5 are that the leave rules of the bank are violated and the workman acted in a manner prejudicial to the interest of the bank. Ext. MEX-2 is the leave rules which is already referred. Leave rule says that an employee has to apply well in advance for availing leave except in unforeseen circumstances or in urgent cases. If one is sick he has to produce medical certificate. Unless the management communicate to the employee that leave he applied for is granted it cannot be presumed that leave is sanctioned. Though the worker says that he had applied for leave whenever he was absent, no copies of leave applications are produced and there is no proof of having submitted any such application for the period from 9-4-1998 to 19-6-1998 (date of charge sheet). The workman has inconsistent version in his claim statement and explanation to the charge sheet. In the claim statement he stated that he had applied for leave whenever he was absent. But in the explanation to the charge sheet (Ext. DEX-2) he says that he had applied for leave on 22-4-1998 and for the remaining period he would submit application. The management does not admit having received any application during his absence from duty. I have already mentioned that going by the attendance register Ext. MEX-4 assuming that the period of unauthorised absence noted in the attendance register alone can be considered as misconduct, still it comes to 54 days of continuous absence. Thus the worker has violated the leave rules and it is breach of any rule of business of the bank as per the Bipartite Settlement.

10. When an employee remains absent continuously without intimation the employer will be put to disadvantage of making alternate arrangement to run the office smoothly. The worker has been in the habit of remaining absent on and off. He was punished three times for unauthorised absence previously. The concerned documents are Exts. MEX-6 to 11. The work of the bank is affected by the

continuous absence of the workman who was a Peon of the office. The conduct of the workman is an act prejudicial to the interest of the bank falling within Clause 19.5(j) of the First Bipartite Settlement. Thus charges 4 and 5 also stand proved.

11. Point No. 3:—The Disciplinary Authority had dismissed the workman from service as per memo dated 17-9-2005. According to the worker the punishment is excessive and harsh. The mitigating circumstances described by him are that his father is a paralytic patient and mother a cancer patient; that his wife is unemployed and lack of issues out of the wedlock always vex him. But it is to be noted that he was given several chances to improve. He was warned and his increments were stopped twice for unauthorised absence. He was instructed not to commit similar misconduct in future. Yet he remained absent from 9-4-1998 till he was given charge sheet on 19-6-1998 without applying for leave or intimating the bank. The management was thus compelled to impose deterrent punishment. The fact that he has to look after his sick parents and wife did not impel him to work and earn. On the other hand he chose to remain absent for a long time despite previous punishments. He does not deserve any leniency in the matter of punishment. Considering his past record the punishment of dismissal cannot be said to be harsh or excessive.

The misconduct being unauthorised absence there is no justification in denying retiral benefits like gratuity, P.F. and pension if he has exercised option for pension. It is for the management to offer him such benefits, if not already paid.

In the result an award is passed finding that the action of the management in dismissing Sri. C. Suresan Pillai from service is legal and justified and he is not entitled for any relief. However, the management may offer him the retiral benefits.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 8th day of June, 2009.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Workman

WW1 - 1-7-2004 - Suresan Pillai C.

Witness for the Management

MW1 - 12-8-2004 - D. Ramakrishnan Nair.

Exhibit for the workman - Nil.

Exhibits for the Management

Ext. M1 - Enquiry Proceedings and Report.

Ext. M2 - Enquiry Proceedings and Report.

नई दिल्ली, 26 जून, 2009

का.आ. 2015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सऊथ इंडियन बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट (संदर्भ संख्या 8/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2009 को प्राप्त हुआ था।

[सं. एल-12012/130/2006-आई.आर.(कै-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th June, 2009

S.O. 2015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2007) of Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the management of South Indian Bank Limited and their workmen, received by the Central Government on 26-06-2009.

[No. L-12012/130/2006-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, ERNAKULAM

Present : Shri. P. L. Norbert, B.A., LL.B., Presiding Officer

(Friday the 12th day of June, 2009/22nd Jyaistha, 1931)

I.D.08/2007

Workman :	K. J. Varoo, Kanjiraparambil House, Kottil Valapil Lane, Thrissur—680 004. Adv. Sri. Asok Shenoy.
Management :	The Chairman, South Indian Bank Ltd., Head Office, Thrissur. By Adv. Saji Varghese.

This case coming up for hearing on 09-06-2009, this Tribunal-cum-Labour Court on 12-06-2009 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the action of the management of South Indian Bank Ltd. in dismissing Shri.K.J. Varoo, a former employee of the Bank from its services w.e.f. 25-11-2005 on the alleged misconduct of misappropriation of cash is fair and justifiable? If not, to what relief he is entitled to?”

2. The facts of the case in brief are as follows:—
Shri.K.J. Varoo was a Clerk of South Indian Bank, Viyyur Branch. He was charge sheeted for misappropriation, fraud, tampering of bank records, failure to discharge duties with diligence and acts prejudicial to the interest of the bank. A domestic enquiry was conducted in which he was found guilty of the charges. The disciplinary authority dismissed him from service. Though he filed an appeal it was rejected.

3. According to the workman enquiry is invalid due to violation of the principles of natural justice and biased attitude of the enquiry officer. A farce of an enquiry was conducted. The findings are perverse. There is no evidence worth reliable to find the guilt of the workman. The punishment is illegal. Even if the allegations are found to be true it amounts at the most to minor misconduct only. The mitigating circumstances of the workman was not considered by the disciplinary authority while imposing the punishment.

4. According to the management the enquiry was conducted in accordance with the procedure and complying with the principles of natural justice. Sufficient opportunity was given to the workman to defend in the enquiry. There is enough evidence to establish the misconduct alleged against the workman. The punishment is in proportion to the misconduct. The workman was, on an earlier occasion, punished for misconduct of availing full house loan without even commencing the construction work. There is no illegality in the punishment as the misconduct found is grave.

5. The validity of enquiry was considered as a preliminary issue and an order was passed on 20-05-2009 holding that the enquiry is valid. Therefore the points that remain to be considered are :—

- (1) Whether the findings are sustainable?
- (2) Is the punishment proper?

The evidence consists of the oral testimony of MW 1 and the documentary evidence of Ext.M 1 enquiry file alone.

6. Point No. 1:—The charges levelled against the workman are:

- (1) On 20-08-2004 when the day's cash was closed it was found that there was a shortage of Rs. 75,000. The amount was misappropriated by the workman who was the cashier.
- (2) In order to cover up the misdeed the workman manipulated cash striking book.
- (3) With a view to suppress the fact of misappropriation the workman removed the concerned page from the cash striking book and destroyed the same.

- (4) Amounts received on various dates from a valuable customer of the bank for credit towards O. D. Account, were not accounted on respective dates.

7. Ext. MEX-3 in Ext. M1 is the memo of charges (page 128 of Ext. M1). The reply of the workman is contained at page 134 (Ext. MEX-6). He admits that while he was closing the cash on 20-08-2004 he found a cash shortage of Rs. 75,000. Immediately he gave the cash striking book to the Assistant Manager in charge. The entries in page 139 were re-written by him in page 140 of the cash striking book. However he is not aware as to what had happened to page 139 of the book. He also denies that amount received from customer M/s. Krishna Agencies were not accounted by him on the same day.

8. Charges 1 to 3 are interconnected and it is convenient to consider them together. The main allegation is that the workman had misappropriated Rs. 75,000 and for avoiding detection of the misdeed he had tampered with the records of the bank. The main contention of the learned counsel for the workman is that it was the duty of the concerned officers of the bank as well as officers who conducted the investigation to find out the denominations of currency which is alleged to have been taken away by the workman on 20-08-2004. But none of the officers tried to find out the currency missing from the cash tray or cash chest in order to say that they were misappropriated by the workman. It is also submitted by the learned counsel that the cash striking book was in the custody of the Branch Manager after the shortage was detected by the Assistant Manager and hence the allegation that page No. 139 of the book was removed by the workman is baseless. It is to be noted that since the enquiry is found to be valid it is not necessary for this court to probe deep into the evidence and analyse it meticulously. Suffice to know whether there is some evidence on record against the workman. If there is absolutely no evidence at all or if the evidence collected is totally irrelevant then alone the interference of the court is called for.

9. In the enquiry nine witnesses were examined and 73 documents were marked on the side of the management. But no defence evidence was adduced. MW1 is the Assistant Manager and Joint custodian of cash. She had given a statement to the Manager on 20-08-2004 narrating the incident. According to her on 20-08-2004 cashier Shri. Varoo had brought the cash striking book after writing and signing it for the purpose of verification around 4.40 p.m. She found that the number of thousand rupee denomination currency was wrongly noted as '99' instead of '29'. This was pointed out to the workman and he corrected it by getting a whitener from MW1. Thereafter the book was brought back to MW1. It was again verified by MW1 and found that multiplication value of ten rupee denomination currency was wrong. There was a cash

shortage of Rs. 75,000. The management was informed, who in turn informed the Deputy General Manager. The latter along with the Chief Manager visited the branch and verified the book and confirmed the shortage. At that time page No. 139 was missing from the book. According to MW1 the striking book was brought to her at the end of the day for verification of the entries and at that time page 139 was signed by the worker. However in Ext. MEX-6 reply to memo of charges it is stated by the workman that while he was writing the striking book he had noticed some cash shortage and immediately the book was taken to the Assistant Manager in charge. But MW1 does not admit this. According to her she was never told about any shortage by the worker. The shortage was detected by her and pointed out to the worker who corrected it and brought back the book. But still she found shortage. This alerted her for close scrutiny of the cash striking book page 139 and found that the multiplication value of ten rupee denomination currency was wrong (pg. 58).

10. MW2 is the Deputy General Manager who conducted the investigation on the same day and prepared Ext. MEX-18 report. According to him when he reached the branch and asked for the cash striking book the Assistant Manager went to cashier's cabin and brought the book. On verification it was found that page 139 was torn away. The details of the cash was already written on a new page (140) by the worker himself. In the cross-examination of the witness there is no proper challenge regarding this aspect.

11. MW6 is the Manager of the branch. According to him on 20-08-2004 around 4.30 p.m. the Assistant Manager had informed him of some shortage of cash. MW6 went to the cash cabin, verified the cash as well as the cash striking book and found that there was shortage of cash of Rs. 75,000. He enquired with the workman. But he could give no valid reason for the shortage. There were some corrections in the relevant page of the striking book. The page was signed by the workman. The matter was informed to higher officers. Thereafter the Deputy General Manager and the Chief Manager visited the branch and enquired about incident. The striking book was till then in the cash cabin. It was brought from the cash cabin for verification by the Deputy General Manager. It was at that point of time that page 139 was seen removed from the book and the same entries were made in the next page (140).

12. It was feebly contended by the learned counsel for the worker that the cash striking book was in the custody of Branch Manager after the shortage was first detected. It is so contended on the basis of the statement of MW6 that cash striking book was not given to the custody of the worker after the shortage was detected (pg. 79). It is to be noted that the witness had not stated that he had carried the book with him to his cabin when he returned. After detection of the irregularity he returned to his cabin for informing his superiors. But when Dy. General

Manager reached the book was taken from the cash cabin for examination by the Deputy General Manager. It is in the same manner that MW1 says. MW2 also says that the book was brought from the cash cabin. Until then the book was there in the cash cabin accessible to the workman as well as the Assistant Manager (MW1). The worker says that he is not aware how page 139 is missing. But he is the person who was writing the cash striking book on 20-08-2004 and he is bound to explain how it had happened and cannot just wash off his hands. He had once corrected the wrong entry in the cash striking book at page 139 by putting whitener. Again there was mistake and correction with regard to multiplication value of ten rupee denomination currency. Since these corrections were done by the workman he is the sole interested person in destroying the sheet containing correction and alteration. It has to be presumed from the circumstances that page 139 was removed with a view to destroy evidence of tampering and manipulation. The workman has no case that there is any motive for any bank staff or officers to trap him. MW7 (Manager Inspection & Vigilance Department) is blamed by the worker for not finding out the denominations of currency which are alleged to have been misappropriated by the worker on 20-08-2004. But it is to be noted that he visited the branch only on the next day on 21-08-2004 and that too mainly for the purpose of investigating into the 4th charge i.e. about the complaint of M/s. Krishna Agencies. The incident of cash shortage was already investigated by MW2. It was not essential to find out the exact denominations of currency that were missing after the days transaction to book the culprit. Ext. MEX-16 is page No. 140 of cash striking book and MEX-17 is page No. 138 of the same book. No evidence was adduced by the defence in the enquiry. The workman being the cashier who had written the cash striking book and who had struck the cash balance of 20-08-2004 he is bound to explain how the shortage had happened and how page No. 139 of the striking book was missing. If it was merely a mistake by making wrong entries in the striking book then there should not be any cash shortage in the cash section. But the cash was also short by Rs. 75,000. When all these circumstances are linked together there is no room for any doubt that the culprit is none other than the worker. There is sufficient material as discussed above to find that the workman is guilty of the first three charges.

13. The 4th charge is that remittances made by customer M/s. Krishna Agencies were not accounted on respective dates of remittances by the workman who was the cashier. Ext. MEX-29 is the complaint of the customer to the Manager made on 21-8-2004. According to the learned counsel for the worker this is a cooked up story to add strength to the allegations of fraud and misappropriation of money (charges 1 to 3). The submission appears to be meritless in the light of the evidence on record. Exts. MEX-32 to 68 are counter foils of cash challans of the

amounts remitted by M/s. Krishna Agencies from March to August 2004. Almost everyday they remit money into their O. D. account. Though the customer has written the dates of remittances of money in the challans, the seal affixed by the cashier does not show the dates. According to the workman as and when amounts were received he had accounted them and credited in the O. D. account of the customer. It is submitted that the date put by the customer on the cash challans are not the correct dates of remittances, but are predated. That is the reason why the amounts were not credited in customer's account on the respective dates shown in the challans. According to him he had not delayed accounting of the payments in the books of accounts. It is to be noted that as many as 40 instances of late accounting is brought out in evidence by the management. As per that there was delay of 1 to 4 days in crediting the amounts remitted by the customer. If it were isolated instances the management could take a lenient view that some mistake or omission would have happened while accounting. However the instances are so many and the workman being the cashier who had received money, is bound to explain satisfactorily as to how this had happened. The contention of the workman that the challans do not bear correct date of remittances is too good a story to be believed. If prior dates were seen in the cash challans submitted along with money for remittance it was the duty of the cashier to verify the dates and get it corrected. That apart in all the challans the dates of the seal showing cash received, are either not seen or not discernable. According to MW6, the Branch Manager on the basis of the complaint when records were verified and the cash received seal was examined it was found that the date of the seal was tampered and mutilated. If the date seal was not proper and clear it was the duty of the cashier to inform the matter to the Manager. Since the customer was remitting money almost everyday there was no need for them to predate the cash challans. The counter foils of challans with cash received seal and cash scroll are Exts. MEX-32 to 68. Ext. MEX-69 is copy of the account of the customer for the period from 17-11-2003 to 23-8-2004. On a verification of the account with reference to Ext. MEX-32 to 68 challans it can be seen that the amounts remitted on various dates were not credited on respective dates by the workman.

14. The Manager of M/s. Krishna Agencies was examined as MW9 in the enquiry. He has given evidence that the amounts remitted by them were not credited in their account by the cashier on respective dates (page 120 to 124 of Ext. M1). MW7, Manager of Inspection and Vigilance Department of the bank had conducted an investigation on 21-8-2004 regarding the complaint of the customer and found the discrepancy in accounting the amounts remitted (page 88 to 90 in Ext. M1). Ext. MEX-31 is the investigation report of MW7 (page 180 to 183). MW8 is the Assistant Manager in charge of cash section of Viyyur branch. However on 20-8-2004 he was on leave

and MW1 was in charge. On the next day when he resumed duty he had verified the accounts and confirmed the late accounting of the accounts remitted by M/s. Krishna Agencies. Thus it is abundantly clear that the worker had retained the money remitted by the customer and misappropriated the same. The finding of the Enquiry Officer regarding charge No. 4 is only to be confirmed.

15. Point No. 2 :—According to the workman even if all the allegations levelled against him are proved it amounts only to mere negligence and not gross negligence. Shortage in cash is a routine matter in banks and such shortages are set right by proper verification of the accounts and detection of the discrepancy. But the evidence discussed in the foregoing Paragraphs lend no support to the case of the workman. The evidence and circumstances go to show that the workman had deliberately tampered with the records of the bank with a view to misappropriate money and he did misappropriate. He went on to destroy the evidence which would go against him. Therefore the charges proved is not simple negligence but gross negligence, misappropriation of money and fraud attracting major penalty under para 19.6 of Bipartite Settlement. He was dismissed from service by the Disciplinary Authority. According to the workman his past record of service and family circumstances were not taken into account by the disciplinary authority while imposing the punishment. Para 16 of the claim statement contains a contention that the extenuating circumstances were not taken into account by the disciplinary authority. But no extenuating circumstances are narrated. In para 15 of the written statement the management contends that his past record is not clean, that he was punished by stoppage of three increments with cumulative effect in 1991 and his promotion was withheld for a period of five years on account of the fraud committed by him by availing full house loan but not even commencing the construction. The disciplinary authority had given the workman an opportunity of personal hearing regarding proposed punishment. Page 9 of Ext. M1 contains the minutes of personal hearing. The workman had not mentioned any mitigating circumstances but only had stated that he was regretful of what had happened and he would be careful in future and he was ready to work anywhere in the bank. Thus there are no extenuating circumstances and the misconduct proved is grave attracting major penalty. It calls for no interference by the court. However the management is generous enough to offer him retiral benefits like gratuity and employee's contribution of EPF.

In the result an award is passed finding that the action of the management in dismissing Shri K. J. Varoo from service is legal and justified and he is not entitled for any relief. However the management may offer him retiral benefits i.e. gratuity and Employee's contribution of EPF.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 12th day of June, 2009.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman - Nil

Witness for the Management

MW1 - 14-5-2009 - Peter A. D.

Exhibit for the workman - Nil

Exhibits for the Management

Ext. M1 - Enquiry File.

नई दिल्ली, 29 जून, 2009

का. आ. 2016.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विक्रम साराभाई स्पेस सेन्टर के प्रबंधन के संबंध में निदेशों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अरनाकुलम के पंचाट (संदर्भ संख्या 11/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2009 को प्राप्त हुआ था।

[सं. एल-42011/5/2008-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 29th June, 2009

S.O. 2016.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vikram Sarabhai Space Centre and their workman, which was received by the Central Government on 29-6-2009.

[No. L-42011/5/2008-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P. L. Norbert, B.A., LL.B., Presiding Officer
(Monday the 15th day of June, 2009/25th Jyatha, 1931)

I. D. 11 OF 2008

Union : The Secretary,
ISRO Casual Workers Union,
Valiamala, Kizhakke Bangalave,
Nedumangadu, Trivandrum.

By Adv. Thomas Abraham.

Management : The Controller,
Vikram Sarabhai Space Centre,
Government of India,
Department of Space,
Trivandrum - 695 022.

By Adv. T. P. M. Ibrahim Khan

This case coming up for hearing on 15-6-2009, this Tribunal-cum-Labour Court on the same day passed the following :

AWARD

This is a reference under Section 10(1)(d) of Industrial Disputes Act. The reference is :—

“Whether the demand of ISRO casual workers union for extending the facilities of canteen, medical and bonus to 11 workers, namely S/Shri. B.S. Ajayakumar, V. Manian Pillai, S. Ponnayan, K. Venugopalan Thampi, B. Mohanan, N. Sasidharan, R. Gangadharan, G. Prasad, N. Mohan Kumar, S. Raman and Y. Francis by the management of Vikram Sarabhai Space Centre is legal and justified? If yes, to what relief the workmen are entitled to?”

On summons both sides entered appearance and filed their pleadings. But when the case came up for evidence the union and counsel remained absent. There is not even representation for the union. The management is ready. 11 Casual workers engaged in Vikram Sarabhai Space Centre, Trivandrum are claiming through union canteen and medical facilities as well as bonus. The management has denied the claim in their written statement contending that they are entitled to get only minimum wages and not the benefits enjoyed by regular employees. Since the union has not turned up with any evidence to prove their claim it has to be found that the claim is not substantiated by the union. Hence their demand cannot be found to be legal and justified.

In the result, an award is passed finding that the demand of the union, for canteen and medical facilities and bonus to 11 workers named in the reference, is not legal and justified and the workers are not entitled for any relief.

Dictated to the Personal Assistant, transcribed and typed by her and corrected and passed by me on this the 15th day of June, 2009.

Appendix : Nil.

P. L. NORBERT, Presiding Officer

नई दिल्ली, 29 जून, 2009

का. आ. 2017.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस. ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, जयपुर के पंचट (संदर्भ संख्या 169/1994) को प्रकटित करती है, जो केन्द्रीय सरकार को 29-06-2009 को प्राप्त हुआ था।

[सं. एल-22012/213/1994-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 29th June, 2009

S.O. 2017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 169/1994) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur SECL as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workmen, received by the Central Government on 29-6-2009.

[No. L-22012/213/1994-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/169/94

Presiding Officer : Shri MOHD. SHAKIR HASAN

The Area President,
Koyla Shramik Sabha (H.M.K.P).
Daman Hill Colliery,
Post Sonawani Colliery,
Distt. Surguja (MP)

... Workman/Union

Versus

The General Manager,
Chirimiri Area of SECL,
Post West Chirimiri Colliery,
Distt. Surguja (MP)

... Management

AWARD

Passed on this 16th day of June, 2009

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/213/94-IR (CM-II) dated 28-9-94 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Sub Area Manager, Daman Hill Colliery of Chirimiri Area of SECL in dismissing Shri Dhan Singh, S/o Shiv Lal, Loader, Daman Hill Colliery from company services w.e.f. 10-3-90 is legal and justified? If not, to what relief the workman is entitled?”

2. The workman Shri Dhan Singh did not appear in the case in spite of notice. Therefore the case is proceeded ex parte against the workman on 15-7-2005.

3. The management appeared and filed written statement in the case. The case of the management in short is that the workman Shri Dhan Singh was appointed as a General Mazdoor Cat-I on 1-1-1974. Subsequently, he was promoted as a semi-skilled worker Cat-II. It is stated that he was a habitual absentee and was given ample opportunity to improve his conduct by putting proper attendance but instead of improving his attendance, he remained absent unauthorisely without prior intimation or sanction of leave. He again became absent from 11-10-89. Thereafter the charge-sheet was issued against him on 17-11-1989 but he did not give satisfactory reply. The management then decided to conduct Departmental Enquiry against him. An Enquiry Officer was appointed and a Presenting Officer is also appointed to represent the Management. The Enquiry Officer started the said proceeding and the workman was given full opportunity to defend his case. The Enquiry Officer conducted the enquiry and after considering all the evidence produced on behalf of the management, he found the allegation against the workman proved and submitted his enquiry report before Competent Authority. The Competent Authority fully agreed with the findings of the Enquiry Officer that the charges levelled against the workman of grave misconduct stands proved. Thereafter the authority terminated the service of the workman w.e.f. 10-3-90 vide order No. 2462-73 dated 1-2-1990. It is submitted that the action of the management of Duman Hill Colliery of Chirimiri Area of SECL in dismissing Shri Dhan Singh w.e.f. 10-3-1990 is legal and justified.

4. The only point for decision is as to whether the action of the management in dismissing the workman w.e.f. 10-3-1990 is legal and justified? If not, to what relief the workman is entitled?

5. To prove the case, the management has examined only one witness. M.W Shri N. R. Das is Personnel Manager in Duman Hill- North Chirimiri Group. He has stated that the workman was habitual absentee and he remain absent from duty unauthorised without intimation, prior permission and sanctioned leave. He has further stated that ample opportunity was given to him to improve his conduct but failed. Lastly a departmental proceeding was started and the charges of his gross misconduct were proved against him though full opportunity was given to defend himself. The Competent Authority after Departmental Enquiry found the charges proved and terminated the service of the workman w.e.f. 10-3-1990. His evidence is ex parte. There is no reason to disbelieve his evidence in absence of any evidence against the management.

6. Considering the evidence, I find that the action of the management in dismissing Shri Dhan Singh w.e.f. 10-3-1990 is legal and justified. Therefore, the workman is not entitled to any relief.

7. In the result, the award is passed ex parte against the workman and in favour of the management without any orders of costs.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 जून, 2009

क्र.आ. 2018.—औद्योगिक विवाद अधिनियम, 1947 (1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 71/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2009 को प्राप्त हुआ था।

[सं. एल-22012/5/1991-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 29th June, 2009

S.O. 2018.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/1991) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of WCL and their workmen, received by the Central Government on 29-6-2009.

[No. L-22012/5/1991-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/71/91

Presiding Officer : Shri Mohd. Shakir Hasan

The Organising Secretary,
R.K.K.M.S(INTUC),
Post Chandametta,
Distt. Chhindwara (MP)

... Workman/Union

Versus

The General manager,
Kanha Area of WCL,
PO Dungaria,
Distt. Chhindwara (MP)

... Management

AWARD

Passed on this 17th day of June, 2009

1. The Government of India, Ministry of Labour vide its Notification No.L-22012/5/91-IR(Coal-II) dated 11-4-91

has referred the following dispute for adjudication by this tribunal:

"Whether the action of the management of W.C.L. Kanhan Area in terminating/dismissing the services of Shri Sitto S/o Fagoor, General Mazdoor, Token No. 1827, Nandan Mine No.1 w.e.f. 8-6-1990 is justified and legal? If not, to what relief the workman is entitled to?"

2. The case of the applicant in short is that the workman Shri Sitto was working as General Mazdoor in Nandan No.1 Mine of Western Coal Fields Limited, Kanhan Area. He fell ill seriously w.e.f. 1-9-89 and was unable to attend his duties. He was admitted in the hospital w.e.f. 1-9-89 to 30-1-90. After recovery from illness, he reported on duty on 31-1-90 along with sickness and fitness certificate but in the evening, he was served with charge sheet alleging therein that he was absent from duties w.e.f. 1-9-89 to 30-1-90 unauthorisedly and he was refused to resume his duty upto 8-6-90 on the ground of Departmental Enquiry. It is stated that he was dismissed from service on 8-6-90 by an order of the Manager, Nandan Mine No.1. It is alleged that on 31-1-90, he was asked to sign over blank paper which was subsequently used by the management in dismissing the services of the applicant. He submitted reply to the charge sheet stating therein that he was seriously ill but without considering his reply, Enquiry Officer Shri P.S. Deshpandey, Labour Welfare Officer was appointed who with prejudiced and biased mind conducted the enquiry in one day and submitted report before Disciplinary Authority who without considering his reply dismissed the service of the applicant w.e.f. 8-6-90. It is stated that there are similar cases where the management has settled the cases and they were reinstated whereas the applicant is discriminated from others. On these grounds, the reference be answered in his favour.

3. The management appeared and filed Written Statement in the case. The case of the management, inter alia is that the workman Shri Sitto was General Mazdoor in WCL, Kanhan Area of Nandan Mine No. 1. It is stated that since appointment, he was in a habit of being absent unauthorisely without any rhyme and reason. In spite of repeated warnings, he did not improve his habit. Finally he remained absent from duty from 1-9-89 without any intimation till the issuance of chargesheet dated 31-1-90. Thereafter explanation was asked from the applicant. The management decided to conduct Departmental Enquiry. The applicant participated in the enquiry and after conclusion of the Departmental Enquiry, the Competent Authority found the charges proved and dismissed him vide order No. 1673 dated 8-6-90.

4. On the basis of the pleadings of both the parties, the preliminary issue was settled as under:—

- (1) Whether the procedure followed in the DE is proper, valid and legal?

5. After hearing on the point of validity of the procedure of the Departmental Enquiry conducted against the applicant, it was found that the procedure was not followed in the Departmental Enquiry and the enquiry against the applicant was vitiated. The management was allowed to prove misconduct in court.

6. Thereafter the applicant became absent. After giving sufficient time to the applicant to appear and contest the case, he did not appear. Hence the case is proceeded ex-parte against the applicant on 9-3-06.

7. On the basis of the pleading, the following issues are for decision:—

- (1) Whether the management has succeeded to prove misconduct of the applicant in Court?
- (2) If yes, the action of management in terminating/dismissing the services of Shri Sitto is justified and legal?
- (3) To what relief, if any, the applicant is entitled to?

8. Issue No. 1:

To prove misconduct, the management has examined oral and documentary evidence. Let us examine the evidence adduced by the management. The management has filed photocopy of Form H from the years 1986 to 1989 which are marked as Exhibits M/1 to M/7. These forms are Register of leave account of the applicant. This register shows that he had no leave days in his account but 61 days in 1986, 113 days in 1987, 87 days in 1988 and 84½ days in 1989 he worked. It is filed to show that he was habitual absentee without any leave in his account. The management has also filed photocopy of Bonus Register of year 1987 to 1989 which are marked as Exhibits M/8 to M/9. The Bonus Register shows that the bonus was paid every year in the month of July, August and September on the basis of attendance. This also shows that the attendance of the workman was very poor. The management has also filed photocopy of attendance of the years 1989 & 1990 which are marked as Exhibit M/11 to M/37. This register further shows that the workman was mostly absent in the year 1989 and was never present even a single day in the year 1990 till charge sheet issued against him. There is no other evidence in rebuttal to the evidence of the management. There is no reason to disbelieve the evidence of the management. It is also clear that there is no documentary evidence to justify the absence of the workman from duty. It appears that workman was not in attendance for 190 days in a year as he was working underground. Thus the documentary evidence shows that the workman was habitual absentee.

9. The Management has also examined two witnesses in the case. M.W.1 Shri Manohar Raktake is a Token clerk in the said mines. He has proved the documents. He was incharge to take attendance of the workman. He has stated that Shri Sitto remained absent from duty

without any leave application and without any intimation and warning was also issued to him but he did not improve his conduct. His evidence is also un-rebutted. Another witness Shri Mishra Chandpuri is wage clerk in Nandan Mine No.1. He has supported the case of the management. He has stated that the workman was habitual absentee. These two witnesses appear to be the competent witnesses to substantiate the case of the management that the workman was habitual absentee. There is nothing to show that these witnesses had any grudge with the workman. Thus the oral and documentary evidence prove the case of the management that the workman was habitual absentee from duty and as such, he is liable for his misconduct. This issue is decided in favour of the management and against the workman.

10. Issue No. 2 & 3

Both the issues are taken up together. It appears from the evidence of the management that the workman had never completed his attendance to the extent of 190 days in a year as he was working underground. I find that the action of the management appears to be justified in view of his misconduct and in view of utility of his service on account of poor attendance in the said mines. Hence these issues are also decided in favour of the management and against the workman.

11. In the result, the award is passed ex parte against the applicant and in favour of the management without any order of costs.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 जून, 2009

क्र.अ. 2019.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं इन्डियन सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 56/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2009 को प्राप्त हुआ था।

[सं. एल-22012/498/1990-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 29th June, 2009

S.O. 2019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the management of

Western Coalfield Limited and their workman, which was received by the Central Government on 29-6-2009.

[No. L-22012/498/1990-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/56/03

Date: 19-06-2009

Petitioner/ : The President
Party No. 1 : Rashtriya Koyla Khadan Mazdoor
Sangh (INTUC), WCL, Head Quarter
Branch, Coal Estate, Civil Lines,
Nagpur (on behalf of Shri B.C. Sahu)

Respondent/ : The General Manager (IR),
Party No. 2 : Western Coalfield Limited, Coal Estate,
Civil Lines, Nagpur

AWARD

(Dated : 19th June, 2009)

1. The Central Government after satisfying the existence of dispute between the President, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), WCL, Head Quarter Branch, Coal Estate, Civil Lines, Nagpur (Party No.1) and The General Manager (IR), Western Coalfield Limited, Coal Estate, Civil Lines, Nagpur (Party No.2) referred the same for adjudication to this Tribunal vide its letter No.L-22012/498/90-IR(Coal-II) dated 25-3-1991 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the management in not regularizing the services of Shri B. C. Sahu, Peon as Clerk Grade-II is legal and justified? If not, to what relief the workman concerned is entitled to?"

3. The reference came up for hearing on 01-09-2005 after transferring the case from CGIT, Jabalpur to this Tribunal at Nagpur. On this date, respondent present, but the Petitioner and his Counsel were absent. The counsel for Respondent was present. The Petitioner is not attending the case since 1-9-2005 i.e. from the date of filing of the case. Today also the Counsel for Respondent present but the Petitioner and his counsel were absent. I do not think it proper to continue it on the same stage years together. It seems that the Petitioner is not interested in prosecuting the case. In the circumstances, no purpose will be served in continuing the case, hence it dismissed for the default of the Petitioner and pass the negative award that he is not entitled for any relief.

Date: 19-6-2009.

A. N. YADAV, Presiding Officer

नई दिल्ली, 29 जून, 2009

का. आ. 2020.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एम्. डब्ल्यू. सी.एल. के प्रबंधन के संबंध निबंधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चैन्नई के पंचाट (संदर्भ संख्या 50/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2009 को प्राप्त हुआ था।

[सं. एल-22012/274/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 29th June, 2009

S.O. 2020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 29-6-2009.

[No. L-22012/274/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A.N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/50/05

Date: 19-6-2009

Petitioner/ : Shri C. Bhattacharya,
Party No.1 Joint Secretary, Rashtriya Koyla
Khadan Mazdoor Sangh (INTUC),
Regional Office, Chandmata,
Dist. Chhindwara, Chhindwara.
(on behalf of Shri Ramprasad Atmaji)

Versus

Respondent/ : The Manager, Rawanwara Khas
Party No. 2 Colliery, Western Coalfield
Limited, Pench Area,
PO - Dighavani, Dist. Chhindwara,
Chhindwara.

AWARD

(Dated : 19th June, 2009)

1. The Central Government after satisfying the existence of dispute between Shri C. Bhattacharya, Joint Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Regional Office, Chandmata, Chhindwara (on behalf of Shri Ramprasad Atmaji) (Party No.1) and the Manager, Rawanwara Khas Colliery, Western Coalfield Limited, Pench Area, PO—Dighavani, Chhindwara (Party No.2) referred the same for adjudication to this Tribunal vide its letter No.L-122012/274/2004-IR(CM-II) dated 8-7-2005 under clause (d) of sub-section (1) and sub-section

(2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. क्या प्रबंधक, रावनवाड़ा खास कोलाफील्ड लिमिटेड ईमानदारी विरत छिन्दवाड़ा म.प्र. के प्रबंधन द्वारा श्री रामप्रसाद अजय गौड़, यू.यू. कार्डिंग ईमान गौड़ को दिनांक 27-6-2003 से सेवा संबंध को रद्द से रद्द करने की कार्यवाही न्यायोचित है। यदि नहीं, तो संबंधित कर्मकार किस अनुदान का हकदार है।

3. The reference came up for hearing on 18-12-2006 on which the Petitioner and his Counsel were absent. The counsel for Respondent was present. The Petitioner is not attending the case since 18-12-2006 i.e. from filing of the case. He has also not even filed a statement of claim. I do not think it proper to continue it on the same stage years together. It seems that the Petitioner is not interested in prosecuting the case. In the circumstances, no purpose will be served in continuing the case, hence it dismissed for the default of the Petitioner and pass the negative award that he is not entitled for any relief.

Date: 19-6-2009

A.N. YADAV, Presiding Officer

नई दिल्ली, 1 जुलाई, 2009

का. आ. 2021.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एवं बी.सी.सी. एल. के प्रबंधन के संबंध निबंधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनोल के पंचाट (संदर्भ संख्या 47/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/410/1998-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st July, 2009

S.O. 2021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC L and their workman, which was received by the Central Government on 1-7-2009.

[No. L-22012/410/1998-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL.

Present : Sri Manoranjan Pattnaik, Presiding Officer.

Reference No. 47 OF 1999.

Parties : The Agent, Bogunia Project, CV Area of
M/s. BCC L, Barakar, Bardwan.

Vrs.

The Area Working President, Janta Mazdoor Sangh,
Jharia, Dhanbad.

REPRESENTATIVES:

For the management: Sri P. K. Das, Advocate

For the union (Workman): None

INDUSTRY: COAL STATE: WEST BENGAL.

Dated the 28-5-2009.

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour *vide* its letter No. L-22012/410/1998- IR(CM-II) dated 23-5-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Agent, Begunia Project, CV Area, P.O. Barakar Distt. Burdwan for not regularizing the services of Shri Jageshwar Rout in the post of Night Guard is justified? If not, to what relief the workman entitled?"

2. On receipt the Order No. L-22012/410/1998-IR(CM-II) dated 23-05-1999 of above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No.47 of 1999 was registered on 7-6-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

3. Both the parties made their appearance and laid down their respective claims by filing written statement. No oral evidence was adduced. Subsequently for a considerable period the Union did not take any interest and notice returned undelivered. Accordingly, the matter was taken up for disposal on merit.

4. The claims of the union revolves around the fact (as reflected from the written statement) that the workman Sri Jageshwar Rout primarily appointed as a dyke cutter was asked to work as Night Guard but he was declared surplus staff due to mechanization of dyke cutting work

by the Company. Invoking the provisions of Sec 7.2 of Certified standing order, the union urged that as because the workman a permanent workman completed a continuous period of six months satisfactorily as night guard since 27-1-97, he is entitled to get the wages of Night Guard w.e.f 28-7-97.

5. The stand of the Management is that the workman's engagement as Night Guard was on time basis and on exigencies. Post of Night Guard or Security Guard requires prerequisite physical fitness and three years of deployment on trial basis. There has been embargo for conversion of work from time rated basis to monthly rated basis and hence the action of the management is legal and justified.

6. As indicated above except the documents no oral evidence has been adduced by the parties. Except the attendance roll showing the duties performed by the workman Jageshwar Rout as "Prahari" guard on different dates nothing has been filed to substantiate the fact that the workman was engaged as a Night Guard on regular basis or on probation so as to lay a claim on the post subsequently. There is nothing found that the workman otherwise possessed the required qualification of physical fitness required for his appointment as such. By simple engagement to perform such work in exigencies and without any prior terms or commitment by the management, the claim of the workman does not seem to be proper. Accordingly it is held that the action of the management in not regularizing the service of Sri Jageshwar Rout in the post of Night Guard is justified and the workman is entitled to no relief. Hence it is order.

ORDER

Let an award be and same is passed as above it be sent to the Ministry of Labour and Employment, Govt. of India, New Delhi.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 1 जुलाई, 2009

का. आ. 2022.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसेल के पंचाट (संदर्भ संख्या 29/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-07-2009 को प्राप्त हुआ था।

[सं. एल-22012/203/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st July, 2009

S.O. 2022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award (Ref. No. 29/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Pandakashwar Area M/s. ECL and their workmen, received by the Central Government on 01-07-2009.

[No. L-22012/203/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, ASANSOL

Present: Sri Manoranjan Pattnaik, Presiding Officer.

REFERENCE No. 29 OF 2005.

Parties: The agent, Dalurband Colliery of M/s. ECL,
Pandabeswar Area, Burdwan.

Vrs.

The General Secretary, Koyala Mazdoor Congress,
Asansol, Burdwan

REPRESENTATIVES

For the management: None

For the union (Workman): Sri S. K. Pnadey, General
Secretary of the Union.

INDUSTRY: COAL STATE: WEST BENGAL.

Dated the 9-4-2009.

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/203/2004-IR(CM-II) dated 13-05-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Dalurband Colliery under Pandabeswar Area, of M/s E.C. L. in dismissing Sh. Tulsi Das, U.G. Loader U.M.No. 120187 from service w.e.f. 15-12-99 is legal and justified? If not, to what relief the workman entitled?"

2. On having received the Order No. L-22012/203/2004-IR(CM-II) dated 13-05-2005 of the above mentioned reference from the Govt. of India, Ministry of Labour, New

Delhi for adjudication of the dispute, a reference case No.29 of 2005 was registered on 31-05-2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

3. Briefly stated the case of the union as set forth in written statement is that the workman Sri Tulsi Das, due to illness remained absent from duties from 19-4-99 Enquiry was held *ex parte* without serving any notice on him. And without serving copy of the charge sheet, his service was terminated w.e.f. 15-12-99 Alleging violation of principle of natural justice the union urged for reinstatement in service of the workman with full back wages.

4. The management for whatsoever reason did not prefer to contest the claims of the union and did not participate in the proceeding.

5. As indicated above the scheduled issue that required to be resolved and question to be decided is that as to whether the dismissal of the workman in question from service w.e.f. 15-12-99 is legal and justified. For whatsoever reasons the management did not participate in the proceeding. No evidence has been adduced from the side of the workman. On a careful scrutiny of the record it appeared that the enquiry has been conducted by the Enquiry Officer in absence of the workman, has been found from the enquiry proceeding that sincere step or attempt was even made to secure the attendance of the workman. Without any sort of proof of sufficiency service of notice and without any opportunity being heard and above all without any positive evidence, the finding that the Enquiry Officer that the absence of the workman was unauthorized and that the work of the company suffered cannot be considered just and proper and in that respect legal. Further, for the alleged absence of the worker for his illness as claimed a dismissal order as punishment also appear to be too hard and disproportionate. The Enquiry Report is not tenable under law. Consequently, the order of dismissal is held not legal and justified. In all fitness of things and in absence of proof that employee was employed elsewhere entitles himself to be reinstated with full back wages and consequential benefits. Hence

ORDER

Let an award be and same is passed in favour of the workman. It be sent to the Ministry of Labour & Employment, New Delhi.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 1 जुलाई, 2009

क्र.अ. 2023.—औद्योगिक विवाद अधिनियम, 1947 (1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. की प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल के पंचाट (संदर्भ संख्या 104/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-07-2009 को प्राप्त हुआ था।

[सं. एल-22012/411/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st July, 2009

S.O. 2023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 104/2005) of the Central Government Industrial Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure in the Industrial Dispute between the the management of Kenda Area of M/s. ECL, and their workman, which was received by the Central Government on 01-07-2009.

[No. L-22012/411/2004-IR.(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Manoranjan Pattnaik, Presiding Officer

Reference No. 104 of 2005

Parties: The Agent, New Kenda Colliery of M/s. ECL, Kenda, Burdwan

Vrs.

The General Secretary, Koyala Mazdoor Congress, Asansol, Burdwan.

REPRESENTATIVES

For the management: None

For the Union (workman) : Sri S.K. Pandey, General Secretary of the Union.

INDUSTRY: COAL STATE: WEST BENGAL.

Dated the 28-07-2009

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/411/2004- IR(CM-II) dated 18-08-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

"Whether the action of the management of New Kenda Colliery under Kenda Area of M/s E.C.L. in dismissing Sh. Bijoy Parwan, General Mazdoor, U.M. No.509316 from service w.e.f. 16-5-97 is legal and justified? If not, to what relief is the workman entitled?"

2. In response to the notice issued to the parties by this Tribunal as back as on 9-9-2005. The Union made their appearance through its General Secretary but the Management preferred not to appear nor to contest. Necessary documents have been filed by the union along with the written statement. As such it necessitated to dispose of the matter exparte in absence of the management.

3. The Core issue in this proceeding is as to whether the dismissal of the workman from service w.e.f. 16-5-97 is legal and justified. The ground of dismissal as found from the Enquiry Report is unauthorized absence from duties since 20-11-1995 for more than 10 days for which charge was labelled against him u/s 17(4) of the Coal Mines Standing Orders and on termination of Enquiry proceeding dismissal order was charged on him as a taken of exemplary punishment as the enquiry report was found by the management to be free from blemish. However, on a close look to the findings of the Enquiry Officer it is glaringly found that the ground of absence as self sickness and factum his illness and treatment for hepatitis have not been refuted and the Medical Certificate issued by the Superintendent, S.D. Hospital, Asansol has never being challenged by the other side. The grounds that the intimation was sent by certificate of posting and not by registered post and the workman was not treated in the Company Hospital stand to no reason so as not to accept the explanation of the workman as true and hence the conclusion arrived at is glaringly illegal, unreasonable and denial of natural justice. As indicated above the Management preferred not to participate in this proceeding for what so ever reason. Having found the enquiry report and findings blemished one as described above. Consequently the impugned dismissal order is held not legal and justified. Self illness of the workman causing involuntary absence in duty can not be considered as an act of reprehensible and grave offence as it has happened in this case so as to draw exemplary punishment. The workman is entitled to be reinstated with full back wages with consequential benefits. Hence ordered

ORDER

Let an award be and same is passed in favour of the workman. It be sent to the Ministry of Labour & Employment, New Delhi.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 1 जुलाई, 2009

SCHEDULE

क्र. आ. 2024.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार मैं, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कार्यकर्तों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 58/2004) को प्रस्तुत करती हूँ, जो केन्द्रीय सरकार को 1-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/404/2003-आई नर (सीएम-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 1st July, 2009

S.O. 2024.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the the management of Group of Mines M/s. Eastern Coalfields Ltd., and their workman, received by the Central Government on 1-7-2009.

[No. L-22012/404/2003-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT: Sri Md. SARFARAZ KHAN, Presiding Officer

Reference No. 58 of 2004

PARTIES : The Agent, Ningha Group of Mines of
M/s. ECL, Burdwan

Vs.

General Secretary, Koyla Mazdoor Congress,
Gorai Mansion, G.T. Road, Asansol.

REPRESENTATIVES

For the Management: Sri P. K. Das, Advocate

For the Union (workman): General Secretary, K.M.C.,
Asansol.

INDUSTRY: COAL STATE: WEST BENGAL

Dated the 30-04-2009

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/404/2003-IR (CM-II) dated 4-10-2004 has been pleased to refer the following dispute for adjudication by this Tribunal

"Whether the action of the management of Ningha Colliery of M/s. ECL in not providing employment to Sh. Shankar Das, Dependent son of Late Suma Devi is legal and justified? If not, to what relief the dependent concerned is entitled to and from which date?"

2. After having received the Order No. L-22012/404/2003-IR(CM-II) dated 4-10-2004 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 58 of 2004 was registered on 14-10-2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

3. The substance of the case of the union as per their written statement is that one Suma Devi permanent employee of the company died on 22-4-1996 while in service. As per wage Agreement/NCWA-V one dependent is entitled to get the employment. Son of deceased Suma Devi namely Sri Shankar Das applied for the post with documents of eligibility but the company did not pay any heed to the same and hence the dispute. The management in their written statement without refuting the death of Suma Devi and death claim of her son, maintained that the case of Shankar Das was not considered as he was a minor i.e. below 18 years of age. The case of the claimant remained under consideration and as such dispute raised is without basis.

4. Both the parties adduced evidence in support of their stand. However as during the course of the proceeding both of the parties reached to a settlement on 10-09-2008 the dispute pales in to insignificance. The copy of memorandum of agreement duly signed by both parties having filed and binding both the parties, this proceeding terminates with a formal award of agreement making the Memorandum of Agreement at 10-09-2008 a part of the award. Hence ordered

ORDERED

Let there be an awarded and same is passed accordingly as per above. The copies of the award be sent to the Ministry of Labour & Employment, Government of India, New Delhi.

MANORANJAN PATTHAIK, Presiding Officer

नई दिल्ली, 1 जुलाई, 2009

क्र. आ. 2025.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार मैं, केन्द्रीय सरकार एवं टी.बी. रिले

सेन्टर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (संदर्भ संख्या 173/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-07-2009 को प्राप्त हुआ था।

[सं. एल-42012/5/2001-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st July, 2009

S.O. 2025.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 173/2001) of the Central Government Industrial Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of T.V. Relay Centre, Koyla Nagar, and their workmen, received by the Central Government on 01-07-2009.

[No. L-42012/5/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

In the matter of a reference under section 10 (1) (d) (2A) of the Industrial Disputes Act, 1947.

Reference No.173 of 2001

Parties: Employers in relation to the management of T.V. Relay Centre, Koyla Nagar, Dhanbad

and

Their Workman

Present- Shri Hari Mangal Singh, Presiding Officer

APPEARANCES

For the management : Sri P.M. Prasad, Advocate

For the Union/workman : Sri D.K. Verma, Advocate

State: Jharkhand Industry : Broadcasting

Dated, the 1-06-2009

AWARD

By order No.L-42012/5/2001-IR (CM-II) dated 17-7-2001 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

SCHEDULE

“Whether the action of the Management of T.V. Relay Centre, Dhanbad in terminating the Services of

Sri Ram Rup Singh, Casual Security Guard is legal and justified? If not, to what relief he is entitled to?”

2. This case was received from the Ministry and registered on 9-8-2001. On 19-2-2009 Advocates of both side appeared for evidence of workman but no evidence was present. From the record it appeared that notice was sent to the workman which was returned back with postal remarks “Addressee has died hence returned to sender” Since the case is of termination and the workman who has already been died there is no alternative but to pass No Dispute Award in this case.

In view of such Circumstances, I Pass the “No Dispute” award in present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2009

क्र. अ. 2026.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीमेन्ट कार्पोरेशन ऑफ इंडिया लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजी आईटी/एल सी/आर/63/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-29012/138/2000-आई आर (एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009

S.O. 2026.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/63/01) of the Central Government Industrial Tribunal/ Labour Court Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cement Corporation of India Ltd. and their workmen, which was received by the Central Government on 30-06-2009.

[No. L-29012/138/2000-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO.CGIT/LC/R/63/01

Presiding Officer : Shri Mohd. Shakir Hasan

Shri Dharendra Singh,
S/o Sukh Nidan Singh, PO & Vill. Darautalapur,
Distt. Fatehpur (U.P.)

.... Workman/Union

Versus

The Zonal Manager,
Cement Corporation of India Ltd.,
Samsthargat Office Complex,
Off Mahul Road,
Opp. Ashish Theatre, Chembur,
Mumbai-74.

.... Management

AWARD

Passed on this 15th day of June, 2009

1. The Government of India, Ministry of Labour vide its Notification No.L-29012/138/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of Cement Corporation of India Ltd., Indore by verbally terminating the services of Shri Dharendra Singh w.e.f. 21-8-99 and non-payment of bonus for the year 97-98, 98-99 is justified or not? If not, to what relief the workman is entitled for?”

2. The case of the applicant in short is that he was appointed by M/s. Cement Corporation of India Ltd., a Govt. of India undertaking and posted at Indore on 6-8-96 and was verbally terminated w.e.f. 21-8-99 by the Regional Manager of Cement Corporation of India, Indore. It is stated that he worked three years and 15 days continuously from 1996 to 1999 and completed 240 days in a calendar year within the meaning of Sec-25-B of the Industrial Disputes Act (hereinafter referred as Act). It is stated that the provision of Sec-25-F of the Act was not complied before terminating him from the service. It is further stated that the work of the applicant was marketing, sales, Reporting of market, sales price of Cement, Preparation of Invoices, Maintaining party ledger which was of permanent nature. He was being paid a consolidated monthly salary @ Rs. 1836 per month from 6-8-96 to March 1999. Thereafter his salary was raised to Rs. 2041 per month but the management was illegally treating him an employee on adhoc basis. There is no provision in standing orders or any rules to appoint on adhoc basis. The Controlling Officer of Cement Corporation of India Ltd. (in short CCIL) of Indore is the Zonal Office of CCIL, Mumbai.

3. The further case is that the Zonal Office, Mumbai had directed to fill up the Provident Fund form and accordingly PF was being deducted from his pay from Jan., 1999 but no account number was allotted to him. He had also received annual bonus for the year 1996-97 by demand draft No. 014270 dated 18-9-98 for Rs.1379 but the bonus for the years 1997-98 and 1998-99 were not paid to him. On these grounds, it is prayed that the applicant be reinstated with back wages with other fringe benefits.

4. The management contested the case by filing Written Statement. The case of the non-applicant/management, inter alia, is that the ID Act is not applicable in the case as the Cement Industry is a scheduled industry under the M.P. Industrial Relations Act and therefore it is not maintainable. It is stated that the corporation became sick company and a reference was made to the Board of Industrial and Financial Reconsideration. As such a case No. 501/96 was registered. It is stated that the said Board passed an order dated 8-8-96 declaring the corporation as a sick company and therefore no case can be entertained against the company and the dispute is not maintainable. The further case is that the management had a Sales Office at Indore and the same is closed with effect from 18-1-2001. The applicant is said to have been engaged for the miscellaneous job purely on temporary/casual basis and was engaged on daily wages for a period of 89 days. The engagement was for a specific period. It is admitted that the wages were being paid to the workman through Bank drafts from the Zonal Office, Mumbai. It is denied that there was any violation of Sec-25F of the Act as the engagement was on contractual basis. Rather Sec-2(oo)(bb) of the Act is attracted in the case. The regular appointment has a recruitment policy. It is also denied that the applicant has worked for 240 days in a calendar year. On these grounds, the award be answered in favour of the management.

5. On the basis of the pleadings of both the parties, the following issues are for adjudication.—

- (1) Whether the applicant shall be deemed to be in continuous service and has completed 240 days in a calendar year?
- (2) Whether the applicant was engaged on daily wages for a fixed period?
- (3) Whether the applicant was terminated/retrrenched without complying the provision of Sec-25F of the I.D. Act.
- (4) Whether the action of the management by verbally terminating the service of Shri Dharendra Singh w.e.f. 21-8-99 and non-payment of Bonus for the year 97-98 and 98-99 is justified?

6. Issue Nos. 1 & 2:

Both the issues are taken up together for the sake of convenience. According to the applicant, he worked for three years and 15 days from 6-8-96 without any break and completed 240 days in a calendar year on a fixed monthly salary of Rs.1836 per month which was subsequently raised to Rs.2041 per month. He received bonus of the year 1996-97 and the PF was being deducted from his pay since January 1999. He was doing job of permanent nature but illegally the management was treating him an employee on an adhoc basis. On the other hand, the management's case

is that he was a casual wages employee appointed on adhoc basis for a fixed period of 89 days and after break the fixed period of 89 days extended time and again. It is denied that he had worked for 240 days in a calendar year.

7. Now let us examine the oral and documentary evidence adduced by the applicant in the case. To prove the case that he had worked continuously for 3 years and 15 days since 6-8-96 without any break, the applicant has filed photocopy of salary statements prepared by Dump Incharge, Indore and the copy was sent to Dy. Manager (Finance), CCIL, Mumbai which are paper Nos. 6/11 and 6/21. These salary statements show that salaries were paid in full from April 1997 to March 1999 without any break. He has further filed photocopy of receipts of payment from April 1999 to July 1999 to show that the salaries were paid till July 1999 without any break which are paper Nos. 12/12 to 12/15. There is no specific denial on the part of the management in respect of these documents. This clearly proves that the salaries were paid in full of each month from April 1997 to July 1999 without any break and the service appears to be continuous and the applicant has completed 240 days in a calendar year. These documents contradicts the case of the management that the service was for a fixed period of 89 days because the salaries were paid in full continuously of every month without any break after 89 days. The applicant has also filed photocopy of available attendance sheets which were prepared by the Dump Incharge of the month of Nov. 98 and Jan. 99 to March 99 which are Paper Nos. 12/8 to 12/11. These are simply filed to show that the applicant was in attendance in the whole months and there was no break. The applicant has also filed photocopy of Pass book of the bank to show that the salaries were paid by Demand Draft and the same were credited in his account. Moreover, there is no specific case as to when and also in which date and month of the year, the service of the applicant was broken after 89 days and also for how many days. In absence of any specific case of the management and in view of the documents of the applicant, it is established that he was not engaged for a fixed period rather he was allowed to continue his work and his service was continuous and has completed 240 days in a calendar year.

8. Another important aspect of the case is also whether the job of the applicant was of casual nature or otherwise as has been claimed by the management. The applicant has filed photocopy of letter No. BZD/101 (31)/1999 - 2000/2806 dated 11-5-99 of the manager (Finance-CR), CCIL, Mumbai wherein it is clear that the said Manager had directed to submit Form-2 for applicant's Provident Fund and applicant's Pension Scheme. This letter indicates clearly that the job of the applicant was not of casual daily wages employee. Photocopies of payment receipts issued by Dy. Manager (Finance), Mumbai office, which are Paper Nos. 12/12 to 12/15, also go to show that Rs.204 per month was deducted as Provident Fund from

April-99 to July 99. These documents are also not specifically denied by the management. These documents also appear to have contradict the claim of the management that the applicant was daily wages employee for a fixed period.

9. To further support the case of the applicant that he was not a daily wages employee for a fixed period, he has filed photocopy of receipt issued by the Dy. Manager (Finance), CCIL, Mumbai to show that the bonus was paid of the year 96-97 of 1379 by demand draft No. 014270 dated 18-9-98. This document is also not specifically denied by the management rather in the pleading the management has stated no comments with regard to the alleged fact. There is no case of the management that casual daily wages employees are entitled for Provident Fund and also payment of bonus. The payment of bonus also supports the case of the applicant that he was not daily wages employee. The management has also failed to show that there is any rule for payment of bonus and for contribution towards Provident Fund to the daily wages employees. This also proves that the job of the applicant was not of daily wages employee.

10. It is admitted fact that the applicant had miscellaneous job. The applicant has filed work Instruction which is Paper No. 6/3. The said instruction shows that the works of the applicant was to be done of the marketing as well as of office and appears to be of permanent nature.

11. The applicant Dharendra Singh is also examined in the case. He has supported his case. He has stated that he worked continuously for more than 240 days prior to his date of termination. He has been cross-examined at length. There is nothing to disbelieve his evidence. He has fully supported the documents filed by him.

12. On the other hand, the management has also filed oral and documentary evidence in the case. In order to prove the case, the management has filed proposals of different dates for appointment of the applicant Shri Dharendra Singh as daily wager for 89 days at a time. The first proposal was of dated 6-8-98 which are marked as Exhibit M/3 to M/8. These proposals are filed to show that at a time, the applicant was appointed for 89 days i.e. for a fixed period. Thereafter fresh proposal was made for further appointment of 89 days and so on. The said proposals do not show that as to when 89 days were completed. Secondly the pay statements and receipts of the payment filed by the applicant contradicts these proposals because the full month fixed salary was paid each and every month since 6-8-96 till termination from the service. It is clear from full payment of the salary without break that the applicant was allowed to work continuously without any break and accordingly full salary was paid to him. The management has also filed notification and its annexures which are marked as Exhibit M/10 to M/12 of the difference of

Dearness Allowance which was enhanced. These documents do not prove the case of the management. It appears that the applicant had also filed application for payment of difference in DA which is marked as Exhibit M/9. This is also no proof to the case of the management.

13. The management has filed photocopy of a letter of Bench Officer-IV dated 8-8-96 of the Board of Industrial and Financial Reconstruction, New Delhi whereby IPCI was appointed as operating Agency and M/s. Cement Corporation of India Ltd. (CCIL) was declared sick in case No. 50/196 which is marked as Exhibit M/1. This is filed to show that CCIL is declared sick and therefore no appointment can be done thereafter it is clear from the above discussion that the applicant was admittedly appointed thereafter time and again. This shows that this order does not affect the establishment at Indore and Mumbai which were the place of Controlling of the applicant. It also appears that the appointment of the applicant became necessary for want of work in the said Indore office. Another photocopy of the office order dated 18-1-01 of the Asstt. General Manager (Personnel) is filed to show that the marketing activities of Indore Regional office, Indore Dump and Khandwa Dump were closed and windup with immediate effect. This is much after the date of alleged verbal termination. This order is also not applicable in the case. Thus the documentary evidence adduced by the management are not sufficient to the case of the management.

14. The management has also examined one witness in the case. Shri R.N. Tiwari was Chief Sales Supervisor, CCIL office situated at Indore. He has proved the documents. The relevancy of the documents are already discussed above. He has supported the engagement of the applicant but as daily wages worker for a period of 89 days. He has not supported the case as to when and for how many days the service of the applicant was disengaged. This shows that there is no specific case of dis-engagement. The documents of the applicant contradicts the oral evidence of this witness. Those documents clearly show that there was no break as full salary was being paid continuously in each and every month with deduction towards Provident Fund. His evidence is also not helpful in establishing the case of the management. Considering the discussion made above, it is proved that the applicant was in continuous service till termination and had completed 240 days in a calendar year and the management has failed to establish that the applicant was engaged on daily wages for a fixed period. These issues are decided in favour of the applicant and against the management.

15. Issue No. 3:

From the pleadings of both the parties, it is an admitted fact that the non-applicant management has not complied the provision of Section 25-F of ID Act before terminating

the service of the applicant Shri Dharendra Singh. This issue is also decided in favour of the applicant and against non applicant management.

16. Issue No. 4:

It is urged on behalf of the management that the reference is not maintainable as the ID Act is not applicable in the case as the M.P. Industrial Relations Act is applicable and therefore it is beyond the jurisdiction of this Tribunal. M.P. Industrial Relations Act, 1960 extends to the whole of Madhya Pradesh only but the management of CCIL is a Govt. Enterprise having its Head Office at New Delhi. Moreover Regional Office Indore was controlled by Zonal Office of CCIL, Mumbai where the M.P. Industrial Relation Act, 1960 (in short hereinafter referred as MPIR Act, 1960) is not applicable. Thus MPIR Act, 1960 is not applicable in the case.

17. The applicant has relied upon the decisions reported in 2001 (88) FLR 508 (S.C.) Deep Chandra versus State of UP and another and 2002 (94) FLR 283 State of Rajasthan versus Kanhaiya Lal & others wherein the Hon'ble Court held that when the employee had put in service for more than 240 days in each year for several years, the employee is entitled to be reinstated in his service. These rulings appear to be applicable in the case as there is clear violation of Sec. 25(F) of LD Act, 1947. On the other hand, the management has relied upon a decision reported in AIR 2007 S.C. 631, M.D. Karnataka Handloom Development Corporation Ltd. I versus Mahadeva Laxman Raval wherein the workman was engaged for a fixed period to train weavers. This ruling is not applicable in the case because in the instance case, the workman was allowed to continue in the service without any break. The management has also cited a ruling reported in (2007) 9 S.C.C. 353 Utranchal Forest Development Corporation versus M.C. Joshi but the said ruling appears to be not applicable in the case as there was no delay in filing case and the workman had worked for more than 3 years. On the basis of the evidence discussed above, it is clear that the action of the management by verbally terminating the service of Shri Dharendra Singh w.e.f. 21-8-99 and nonpayment of Bonus for the year 97-98 and 98-99 was not justified. Accordingly this issue is also answered in favour of the applicant and against the management/non-applicant.

18. In the result, the applicant is entitled to reinstatement with back wages w.e.f. 21-8-99. Accordingly award is passed in favour of the applicant and against the management/non-applicant without any order of costs.

19. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 2 जुलाई, 2009

क्र.आ. 2027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. जयपुर उद्योग लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 23/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-29011/32/1996-आईआर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009

S.O. 2027.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.23/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Jaipur Udyog Ltd. and their workman, which was received by the Central Government on 30-6-2009.

[No. L-29011/32/1996-IR(M)]

KAMAL BAKHRU, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी- अनुराभा शर्मा, आर.एच.जे.एस.

निर्देश/विवाद प्रकरण क्रमांक: औ.न्या./केन्द्रीय/23/96

दिनांक स्थापित: 21-11-96

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल. 29011/32/96-आई आर (विविध) दि.13-11-96

निर्देश/विवाद अन्तर्गत धारा 10 (1) (घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

अध्यक्ष, सीमेंट वर्कर्स कर्मचारी संघ, सवाईमाधोपुर:

-प्रार्थी श्रमिक यूनियन

एवं

प्रबंधक, मै. जयपुर उद्योग लि., साहुनगर, सवाईमाधोपुर:

-अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक यूनियन की ओर से प्रतिनिधि:-

श्री डी. आर. द्विवेदी

अप्रार्थी नियोजक की ओर से:-

कोई उप. नहीं

अधिनिर्णय दिनांक: 26-5-09

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासांगिक आदेश दि. 13-11-96 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिससे तदुपरान्त "अधिनियम" से सम्बोधित किया जायेगा की धारा 10 (1) (घ) के अंतर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

"क्या सीमेंट वर्कर्स कर्मचारी संघ, सवाईमाधोपुर द्वारा दि. 30-1-91 एवं दि. 7-8-95 को उनके एवं प्रबंधन के बीच हुए समझौते को प्रभावहीन एवं निष्क्रिय घोषित करने की कार्यवाही उचित एवं न्यायसंगत है? तथा इसके परिणामस्वरूप प्रबंधन द्वारा उनकी फलौदी बकरी पर तालाबन्दी करने कार्यवाही उचित है? यदि नहीं तो संबंधित पक्ष किस अनुतोष के हकदार हैं ?

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत रूप में जारी की गयी जिस पर दोनों पक्षों की ओर से अपने-अपने अभ्यावेदनों के समर्थन में साक्ष्य प्रस्तुत किये जाने उपरान्त पत्रावली बहस अन्तिम में नियत हुई।

3. पत्रावली के अवलोकन से प्रकट होता है कि दौरान विचारण दि. 28-3-07 को अप्रार्थी प्रतिनिधि श्री एस. सी. मिश्रा, मैनेजर (पी एण्ड डबल्यू.) की ओर से प्रार्थना-पत्र के साथ समझौता (एग्रीमेन्ट) दिनांकित 18-11-06 की फोटोप्रति प्रस्तुत कर निवेदन किया गया था कि दोनों पक्षों के मध्य समझौता/राजीनामा हो चुका है। तदुपरान्त पत्रावली पेश होने राजीनामा अब तक नियत होती रही। आज प्रार्थी श्रमिक यूनियन की ओर से प्रतिनिधि श्री डी. आर. द्विवेदी ने भी प्रार्थना-पत्र प्रस्तुत कर यह निवेदन किया कि पक्षकारों के मध्य लंबित प्रकरण में लोक न्यायालय की भावना से राजीनामा हो गया है और अब प्रार्थीगण कोई कार्यवाही नहीं चाहते हैं, अतः तदनुसार अधिनिर्णय पारित कर दिया जावे।

चूँकि लम्बित प्रकरण में पक्षकारों के मध्य उक्त प्रकार से राजीनामा सम्पन्न हो गया है और अब प्रार्थीगण कोई कार्यवाही नहीं चाहते हैं, अतः सम्प्रेषित निर्देश/विवाद को इसी प्रकार अन्तिम रूप से अधिनिर्णित कर उत्तरित किया जाता है।

अनुराभा शर्मा, न्यायाधीश

नई दिल्ली, 2 जुलाई, 2009

क्र.आ. 2028.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.पी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, ईर्णाकुलम के पंचाट (संदर्भ संख्या 79/ 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-30011/46/1999-आईआर (एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009

S.O. 2028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B. P. C. L. and their workmen, which was received by the Central Government on 30-6-2009.

[No. L-36014/46/1999-IR(M)]

KAMAL DAKHERU, Desk Officer
ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri P. L. Norbert, B.A., LL.B., Presiding Officer
(Wednesday the 27th day of May 2009/6th Jyaishta,
1931)

I. D. 79/2006

(I. D. 75/1999 of Labour Court, Ernakulam)

Union :

The General Secretary,
Petroleum Employees Association,
Dr. Salim Ali Road, Cochin.

By Adv. Sri. H. B. Shenoy.

Management :

The Senior-Divisional Manager,
Bharat Petroleum Corporation Limited,
Dr. Salim Ali Road, Cochin - 683014

By Adv. M/s. Menon & Pai

This case coming up for hearing on 15-5-2009, this Tribunal-cum-Labour Court on 27-5-2009 passed the following.

AWARD

This is a reference made under Section 10 (1) (d) of Industrial Disputes Act. The reference is :

“Whether the demand of Petroleum Employees Association for absorption of around 140 contract workers working in various establishment of M/s. Bharat Petroleum Corporation Ltd. situated in the State of Kerala at different jobs for considerably long period, as the permanent workers by the management is legal and justified? If so, to what relief the concerned workmen are entitled?”

2. The facts of the case in brief are as follows:— The union is claiming regularisation of 148 contract employees in the establishment of Bharat Petroleum Corporation functioning in different units in Kerala. According to the union the management employed several workers under the banner of “contract labour” in the state of Kerala. But they are really employees of the management. They have

been working continuously for a long time. They are supervised and controlled by the management. The work is *personal in nature*. The management has named them as ‘contract labour’ on the strength of sham and void contracts entered with third parties with a view to deprive them of the benefits and privileges of permanent workmen. The management has been employing workers for certain periods and then engage fresh batches in succession. The union demanded absorption of these workmen several times. But the management has not responded favourably. To keep such workers in job for long periods without giving them benefits of permanent workers is an unfair labour practice. Employment of fresh hands after retrenching the existing workman is in violation of S. 25 (H) of I.D. Act. The management is not following the Rule of “last come first go”. No retrenchment compensation or notice was given to the retrenched workers.

3. According to the management the reference is vague and the number of employees working within the territorial jurisdiction of this court is not from the order of reference. Though the demand is to absorb the contract workers the concerned contractors are not made parties to the dispute. The management is wrongly added as a party. The reference is bad for misjoinder and nonjoinder of parties. The contract labour are not workmen within the definition of S. 2 (s) of I. D. Act. There is no master-servant relationship between the parties. Hence there is no industrial dispute as defined U/s. 2 (k) of the I.D. Act. The management engages contract labour only for the jobs which are not permanent in nature. For permanent jobs workers are recruited as per norms of recruitment. The management denies supervision and control by its officials. Long and continuous employment of contract labour is also denied by the management. None of the provisions of I.D. Act are applicable to contract labour. The management is not resorting to any unfair labour practice. The question of the rule of “last come first go” does not arise in this case. The contracts by which the workers are engaged are genuine contracts. None of the workers are entitled to be absorbed.

4. In the light of the above contentions the following points arise for consideration.

1. Is the contract sham ?

2. Are the workers entitled to be absorbed in the management establishment ?

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W-1 to W-81 series on the side of the union and MW1 and Exts. M1 to M3 on the side of the management.

5. Point No. 1:— It is the case of the union that 148 workers involved in this case entered service of management corporation as contract labour. But the so-called contract is sham and pretentious and the workers

in fact are employees of the corporation. According to the management they are only contract labour and the contract is genuine.

6. The very reference describes the workers as contract labour. The union also admits that they entered service as contract labour. Otherwise the very contention for absorption cannot stand. The burden therefore is on the union to prove that contract is sham. In *Steel Authority of India Ltd. & Ors. v. National Union Water Front Workers & Ors.* 2001-II-L.L.J. 1087 (Five Judges Bench decision) the test to know the nature of the contract is laid down in paragraph 65 of the judgment :

“Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment a question might arise whether the contractors is a mere camouflage as in *Hussainbhai Calicut's case* (supra), and in *Indian Petrochemicals Corporation's case* (supra), etc.; if the answer is in the affirmative, the workman will be in fact an employee of the principal employer, but if the answer is in the negative, the workman will be a contract labour.”

The management does not admit that workers were hired in connection with the work of the establishment through contractor. Therefore the factual situation has to be ascertained from the evidence on record to know the manner in which workers are engaged in order to find out the nature of contract.

7. The main factors to ascertain whether the contractor is only a supplier of labour or he has undertaken to produce a given result for the establishment are :

- (1) Supervision and control.
- (2) Payment of wages.
- (3) Disciplinary Action.

8. (1) Supervision & Control :

The union contends that the workers are supervised and controlled by the officers of management. WW1 is the General Secretary of the union and a worker. To a specific question in the cross examination as to whether the contract labour are not supervised by contractors' supervisors, his answer is that all workers are not supervised by contractors' supervisors (page 8 & 9 of WW1). The witness also says that the contract work is

done by engaging contract labour and permanent workers are recruited by inviting applications. The age of applicants should be 25 years and educational qualification is S.S.L.C (page 9 & 10). However he does not say which officer of the management is supervising and the manner in which they are supervised and controlled. According to MW1, Manager (Operations) the contract workers are supervised and controlled by the contractors and not by the corporation. In the cross examination there is no direct question about any particular official who is supervising (page 12 of MW1). According to MW1 if a labourer misbehaves the contractor will be instructed, not to engage him. The standard of work is to be maintained by the contractor. The officer of the corporation who issues work order has to assess the standard of work. If the work is not satisfactory or defective the contractor will be directed to set it right and not the workers. Thus there is no evidence to prove that the workers are supervised and controlled by the management.

9. (2) Payment of Wages

To prove that wages are paid by the management the union has produced Exts. W-2 to 47 and 58 to 63. Exts. W2 to 47 are: (a) Wage Slips (b) E.S.I. Cards (c) Entry Permits and (d) P.R. annual statements of accounts. Exts. W-58 to 63 are ESI cards of some of the workers.

10. (a) Wage Slips

According to the union in none of the wage slips the contractor's name is shown but that of the management alone. It is to be noted that in the first column of the wage slip (printed form) name of the establishment is to be mentioned. It is against that column that the name of the management is noted. Just above the name of the establishment the words “all contractors” are printed. In the third column regarding designation of the employee it is printed ‘unloading/loading.’ The fact that the name of the establishment is shown in the wage slip does not mean that management is the employer. It is only the name of the establishment where the workers are working. It is the further case of the union that wage slip is signed by an officer of the management and not by the contractor. However the management does not admit it. There is no evidence either oral or documentary to show that the signature subscribed at the foot of the wage slip is that of an officer of management. At any rate this contention of the union and the submission of the learned counsel for the union become redundant in view of the testimony of WW1. He admits in the cross examination (page 3) that the wage slips produced in this case were issued by the contractor. This ends the controversy regarding payment of wages evidenced by Exts. W2 to 47.

11. However it is pointed out by the learned counsel for the union that Exts. W-48 to 53, 55 and 56 will support the contention of the union that wages were paid

by the management and not by the contractor. Exts. W-48 is a receipt for having paid wages to four workers for the month of February 2001. The payment is admittedly made by the management and not by the contractor. The names of the four workers are S. Saseendran, K. Sathesnan, L. Preman and K. Janardhanan. Exts. W-49 to 53 are vouchers acknowledging receipt of payment from the management by the four employees. They are described as casual workers as per these documents. These workers are Sl. Nos. 84 to 86 and 88 in the list of workers (Ext. W1). MW1 admits (page-9) that as per Exts. 48 to 53, 55 and 56 payments were made by the management. Ext. W-56 is a letter issued by Accounts Pay Roll, Madras to Kannur division of the management instructing to make arrangements for Ex-gratia payment to temporary employees Saseendran and Balan. But according to MW1 Shri Saseendran is a contractor-cum-worker and the other three workers are employees of Saseendran. However other than the ipse dixit of MW1 there is no evidence to corroborate the case of the management. Whereas Exts. W-48 to 53, 55 and 56 prove that the four employees were treated as casual employees of the management and wages were paid by the management.

12. But the case of the union is that all the 148 workers, including Saseendran and three others referred supra entered service as contract labour (though the contract is sham) and not as casual labour. The union has no case that any of the workers were taken by the management as casual labourer. If the workers are taken and treated as casual labourers of the management then they cannot claim absorption or regularisation. It is the discretion of the management to consider casual employees for absorption. Being a public sector undertaking they are guided by presidential directives and norms of recruitment. Even WW1 admits that permanent workers are recruited after inviting applications. There is age limit and educational qualification for applying for the post. Besides reservation policy has to be observed (page 9 and 10 of WW1). However long a casual employee works he does not acquire a right for absorption. Thus the definite case of the union is that all the workers in this case were taken as contract labour under the cover of sham contract. Hence they are entitled for absorption. The case of Saseendran and three others stand on a different footing as Ext. W-48 to 53, 55 and 56 go to show that they were treated as casual employees of the establishment and not of contractor. Is evidence regarding payment of wages for certain days during certain periods, sufficient to say that these employees are direct employees of the management. Regarding supervision and control there is no evidence. At least one of the four workers could be examined to give evidence as to how they entered service, the mode of payment, the manner of supervision etc. There is no evidence to show whether these four workers were hired by the management through contractor or hired by

the contractor to carry out works undertaken by the contractor. If they were taken by the management without the intervention of a contractor then their status is that of either casual or temporary workmen and the present claim cannot stand.

13. It is relevant to note that the management was left in the dark as to the identity of all the workers. In the order or reference no list of workers is attached. Even in the reference the exact number of workers is not mentioned but described as "around 140" workers. The union is not even able to identify all the workers who are concerned with the dispute. Unless particulars of workers are specifically mentioned in a list annexed to the reference it is not possible for the management to take up a definite contention regarding the status and the nature of work of each employee. A claim statement was filed by the union in March 2001. The written statement was filed by the management in September 2001. However the list of workers, Ext. W1 was produced by the union only on 22-6-2007. The submission of the learned counsel for the union that Exts. W-48, 53, 55, and 56 prove that all the 148 workers are really employees of the management cannot be accepted because these documents refer only to four employees. The remaining documents on the side of the union do not support the case of the union and WW1 admits that wages are paid by contractors. WW1 has also admitted (page 5 and 6) that service conditions and wages are settled in discussion between contractors and union in the presence of Conciliation Officer and management is only a witness to the settlement and conciliation. Thus the evidence does not reveal that wages are paid by the management except to four employees mentioned above.

14. (b) ESI Cards

According to the union contributions to Employees State Insurance are paid by the management. Exts. W2 to 47 contain Photostat copies of identity cards issued by ESI corporation to the employees. The cards will not show that the ESI Contribution is paid by the management. Assuming that it is paid by the management still it will not show the status of employee. The returns of ESI contribution called for from the management are produced (but not marked). Even contract labour is covered by ESI Act. Hence an employee, whether he is contractual or regular will get an identity card from the ESI Corporation. S.38 of the Employees State Insurance Act says that all employees, in factories or establishments to which the Act applies, shall be insured in the manner provided by the Act. S. 40 says that the principal employer shall pay in respect of every employee whether directly employed or through an immediate employer, the contributions of employer as well as employee. Section 41 says that the principal employer who has paid contribution in respect of an employee shall be entitled to recover the amount from

the immediate employer. S.2 (9) defines employee. The definition takes in employment through contract labour also. Thus the fact that contribution to ESI is paid by the management does not necessarily mean that the management is the employer of an employee.

15. (c) Entry Permits

Exts.W2 to 47 also contain copies of entry permits issued by the management to workers. The Entry permits also will not prove the case of the union that workers are the employees of the management. The premises of the management being a security area nobody can enter the premises without an entry permit. Besides entry permits describe the workers as contract workmen. Hence the Entry permits also do not support the case of the union that the employer of workers is the management.

16. (d) PF Annual Statements of Accounts

Exts.W2 to 47 also contain PF annual statements, of contributions in respect of workers. Even if contributions are paid by the principal employer the union cannot say that the workers are employees of principal employer. S.8-A of Employees' Provident Funds and Miscellaneous Provisions Act says that amount of contribution, both of the employer and employee, paid by an employer can be recovered from the contractor. Section 2 (f) defines employee. It includes a person employed through a contractor. It is the liability of the principal employer to pay PF contributions of an employee whether regular or contractual. Ext.W-57 is the proceedings of Regional Provident Fund Commissioner. The union had demanded enrolment of 16 workers to the membership of employee's Provident Fund. After hearing the union and Bharath Petroleum Corporation (management) the latter was directed to file returns and remit statutory dues in respect of the 16 workers. The direction was given to the management because till then nobody, either the management or the contractor, had paid contributions to PF and enrolled the workers in the provident fund. It is the statutory obligation of a principal employer to pay contributions. It was then contended by the learned counsel for the union that the very fact that the management had not sought to implead the concerned contractors in the proceedings before Provident Fund Commissioner, is itself proof of the fact that the workers are not contractual labour. As per the provisions of the Act referred above if the contractor fails to pay contribution to PF it is the statutory liability of the principal employer to make payment and to recover it from the contractor. WW1 says that PF contributions in respect of permanent employees of the corporation are paid under code KR/261 and that of contract labour under the subcode KR/261/ABC (page-8). According to MW1 PF contribution is paid by the contractor under the Code of management (page 8). Being a statutory liability of principal employer the payment of PF contribution by the management is not decisive in

determining the fact of the nature of employment. Therefore Ext.W-57 also will not help the union to prove that the employer of the workers is the management.

17. (3) The union has no case that any disciplinary action was taken by the management against any of the 148 workers. There is no evidence also to that effect. It is true that MW1 has stated (page 12) that if a worker misbehaves the contractor (and not the workers) is directed by the management not to engage him any more. That means that the Disciplinary Authority of workers is the contractor and not the management.

18. It was contended by the learned counsel for the union that the management has not produced contract agreements as well as licences of contractors to prove that contracts are genuine and workers are employed by the contractors. It is relevant to note that the union has no case that there is no contract at all. Their case is that there is contract, but it is pretentious and sham, created for the purpose of depriving the workers of their service benefits. The management has however produced one contract agreement (Ext.M1) and a notice of commencement of contract work issued to one of the contractors. It is not necessary to produce all the contracts of various periods in view of the plea of the union itself as well as the terms of reference. It is then submitted that the jobs done by the employees are not covered by the registration under Contract Labour (Regulation and Abolition) Act. Ext.M3 is a copy of the registration certificate under Section 7 of CLRA Act. The works mentioned in Ext.M3 are civil work, fabrication work, painting and maintenance, electrical work, catering work and pipeline installation. The work done by the employees are security, loading and unloading, house keeping and gardening, maintenance work, electrical repairing and maintenance and civil works. As per entry permits the jobs are loading and unloading of cylinders, transportation of cylinders and handling of cylinders. Assuming that certain jobs are not covered by registration the management need only to face prosecution under Section 25 of CLRA Act. But the fact that there is no registration regarding certain jobs given on contract not necessarily mean that the contract is not genuine. It may be a piece of evidence along with other evidence to prove that the contract is sham. But by itself the case of union cannot be substantiated.

19. None of the factors to prove that the contract is sham and pretentious are established by the union. Naturally the workers cannot claim absorption by the principal employer. There is no employer-employee relationship between the workers and the management. The employer of the worker is the contractor. Once the period of contract comes to an end the work of the employees too comes to an end. Since the contractual workers are not 'workmen' within the definition of S.2 (s) of I.D. Act no kind of rights under the provisions of

the I.D. Act accrue to them, much less a right for absorption.

20. It is pointed out by the learned counsel for the management that regarding some of the workers there was another industrial dispute in respect of the same issue and an award was passed in that case by this court. A copy of the award (I.D. 37/2006) is produced. It is admitted by the union that 16 workers had raised a dispute through another union for absorption. But they did not succeed. The workers in I.D. 37/2006 are Serial Nos. 93 to 107 in Ext.W1 list. So far as they are concerned they cannot once again raise the same dispute. That apart there are another set of workers engaged as security guards on contract basis admittedly. Exts.W-64 to 81 are identity cards issued by the contractor (Raven-Air Securities), wage slips, E.S.I. cards and a few P.F. annual statements. The union admits that they are contract labour taken on the basis of a genuine contract. They are Sl. Nos. 130 to 143 and 145 to 148 in Ext.W1. They too cannot demand absorption.

In the result an award is passed finding that the demand of the union for absorption of contract labour, working in various units of Bharat Petroleum Corporation in the State of Kerala, is not legal and justified and the workers are not entitled for any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of May, 2009.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union

WW1 - 11-2-2009 — B. Balagopalan

Witness for the Management

MW1 - 21-4-2009 — T. R. Harikrishnan

Exhibits for the Union

W1.

Photocopy of List of Contract Workmen engaged in BPCL at its offices in Kerala

W2.

- | | |
|--|-------------------|
| (a) Photocopy of wage slip issued to | Shri. Anil Kumar. |
| (b) Photocopy of Identity Card issued to | Shri. Amit Kumar. |
| (c) Photocopy of Entry Permit Card issued to | -do- |

W3.

- | | |
|--|--------------|
| (a) Photocopy of Wage slip issued to | David Antony |
| (b) Photocopy of Identity Card issued to | -do- |
| (c) Photocopy of Entry Permit Card issued to | -do- |
| (d) Photocopy of Annual statement of accounts of provident funds issued to | -do- |

W4.

- | | |
|--|----------------|
| (a) Photocopy of Wage slip issued to | Asok Kumar. G. |
| (b) Photocopy of Identity Card issued to | -do- |
| (c) Photocopy of Entry Permit Card issued to | -do- |
| (d) Photocopy of Annual statement of accounts of provident funds issued to | -do- |

W-5.

- | | |
|--|-----------|
| (a) Photocopy of Wage slip issued to | Devadasan |
| (b) Photocopy of Identity Card issued to | -do- |
| (c) Photocopy of Entry Permit Card issued to | -do- |
| (d) Photocopy of Annual statement of accounts of provident funds issued to | -do- |

W-6.

- | | |
|--|------------|
| (a) Photocopy of Wage slip issued to | Dominic T. |
| (b) Photocopy of Identity Card issued to | -do- |
| (c) Photocopy of Entry Permit Card issued to | -do- |
| (d) Photocopy of Annual statement of accounts of provident funds issued to | -do- |

W-7.

- | | |
|--|------------------|
| (a) Photocopy of Wage slip issued to | Harrison Ronald. |
| (b) Photocopy of Entry permit Card issued to | -do- |

W-8.		(b) Photocopy of Identity Card issued to	Merin David
(a) Photocopy of Wage slip issued to	Ignatious Fernandez.	(c) Photocopy of Entry permit Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	W-14.	
(c) Photocopy of Entry permit Card issued to	-do-	(a) Photocopy of Wage slip issued to	Simi Mon
W-9.		(b) Photocopy of Identity Card issued to	-do-
(a) Photocopy of Wage slip issued to	John Bosco	(c) Photocopy of Entry permit Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	W-15.	
(c) Photocopy of Entry permit Card issued to	-do-	(a) Photocopy of Wage slip issued to	Sreeraj
W-10.		(b) Photocopy of Identity Card issued to	-do-
(a) Photocopy of Wage slip issued to	John Martin	(c) Photocopy of Entry permit Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	W-16.	
(c) Photocopy of Entry permit Card issued to	-do-	(a) Photocopy of Wage slip issued to	Vijayan B
(d) Photocopy of Annual statement of accounts issued to	-do-	(b) Photocopy of Identity Card issued to	-do-
W-11.		(c) Photocopy of Annual statement of accounts issued to	-do-
(a) Photocopy of Wage slip issued to	Justin Fernandez	W-17.	
(b) Photocopy of Identity Card issued to	-do-	(a) Photocopy of Wage slip issued to	Vijayan V.
(c) Photocopy of Entry permit Card issued to	-do-	(b) Photocopy of Identity Card issued to	-do-
(d) Photocopy of Annual statement of accounts issued to	-do-	(c) Photocopy of Entry permit Card issued to	-do-
W-12.		(d) Photocopy of Annual statement of accounts issued to	-do-
(a) Photocopy of Wage slip issued to	Martin David	W-18.	
(b) Photocopy of Identity Card issued to	-do-	(a) Photocopy of Wage slip issued to	S. R. Siva-prasad
(c) Photocopy of Entry permit Card issued to	-do-	(b) Photocopy of Identity Card issued to	-do-
W-13.		(c) Photocopy of Entry permit Card issued to	-do-
(a) Photocopy of Wage slip issued to	Merin David	(d) Photocopy of Annual statement of accounts issued to	-do-

W-19.		(c) Photocopy of Entry permit Card issued to	Muralidharan Nair S.
(a) Photocopy of Wage slip issued to	Hari Prasad	(d) Photocopy of Annual statement of accounts of issued to	-do-
(b) Photocopy of Identity Card issued to	-do-		
(c) Photocopy of Entry permit Card issued to	-do-	W-25.	
W-20.		(a) Photocopy of Wage slip issued to	Shijil Kumar K. P.
(a) Photocopy of Wage slip issued to	S. Thulaseedharan	(b) Photocopy of Identity Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	(c) Photocopy of Entry permit Card issued to	-do-
(c) Photocopy of Entry permit Card issued to	-do-	W-26.	
(d) Photocopy of Annual statement of accounts of issued to	-do-	(a) Photocopy of Wage slip issued to	Mouris Joseph
W-21.		(b) Photocopy of Identity Card issued to	-do-
(a) Photocopy of Identity Card issued to	Ramachandran S. B.	(c) Photocopy of Entry permit Card issued to	-do-
(b) Photocopy of Entry permit Card issued to	-do-	W-27.	
W-22.		(a) Photocopy of Wage slip issued to	N. Raju
(a) Photocopy of Wage slip issued to	A. Satheesan	(b) Photocopy of Identity Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	(c) Photocopy of Entry permit Card issued to	-do-
(c) Photocopy of Entry permit Card issued to	-do-	(d) Photocopy of Annual statement of accounts issued to	-do-
(d) Photocopy of Annual statement of accounts issued to	-do-	W-28.	
W-23.		(a) Photocopy of Wage slip issued to	M. Abdul Rehman
(a) Photocopy of Wage slip issued to	Baiju S	(b) Photocopy of Identity Card issued to	-do-
(b) Photocopy of Identity Card issued to	-do-	(c) Photocopy of Entry permit Card issued to	-do-
(c) Photocopy of Entry permit Card issued to	-do-	(d) Photocopy of Annual statement of accounts issued to	-do-
W-24.		W-29.	
(a) Photocopy of Wage slip issued to	Muralidharan Nair S	(a) Photocopy of Wage slip issued to	Krishnan Kutty V
(b) Photocopy of Identity Card issued to	-do-	(b) Photocopy of Identity Card issued to	-do-

(c) Photocopy of Entry permit Card issued to	-do-	W-35.	(c) Photocopy of Identity Card issued to	Binu R.
(d) Photocopy of Annual statement of accounts issued to	-do-		(d) Photocopy of Entry permit Card issued to	-do-
W-30.		W-36.		
(a) Photocopy of Wage slip issued to	Kunjumon Fernandez.	(a) Photocopy of Identity Card issued to	Sudhakaran A.	
(b) Photocopy of Identity Card issued to	-do-	(b) Photocopy of Entry permit Card issued to	-do-	
(c) Photocopy of Entry permit Card issued to	-do-	W-37.		
W-31.		(a) Photocopy of Identity Card issued to	V. Vinodraj	
(a) Photocopy of Wage slip issued to	G. Soman.	(b) Photocopy of Entry permit Card issued to	-do-	
(b) Photocopy of Identity Card issued to	-do-	W-38.		
(c) Photocopy of Entry permit Card issued to	-do-	(a) Photocopy of Identity Card issued to	S. Rajan	
W-32.		(b) Photocopy of Entry permit Card issued to	-do-	
(a) Photocopy of Wage slip issued to	Ayyappan. L	W-39.		
(b) Photocopy of Identity Card issued to	-do-	(a) Photocopy of Identity Card issued to	V. Mohanan.	
(c) Photocopy of Entry permit Card issued to	-do-	(b) Photocopy of Entry permit Card issued to	-do-	
W-33.		W-40.		
(a) Photocopy of Wage slip issued to	Ajith. R.	(a) Photocopy of Identity Card issued to	Vinu. M	
(b) Photocopy of Identity Card issued to	-do-	(b) Photocopy of Entry permit Card issued to	-do-	
(c) Photocopy of Entry permit Card issued to	-do-	W-41.		
W-34.		(a) Photocopy of Identity Card issued to	R. Madhu-soodanan	
(a) Photocopy of Identity Card issued to	A. Jeevanandan.	(b) Photocopy of Entry permit Card issued to	-do-	
(b) Photocopy of Entry permit Card issued to	-do-	W-42.		
W-35.		(a) Photocopy of Identity Card issued to	R. Sunil Kumar	
(a) Photocopy of Identity Card issued to	Anil Kumar S.	(b) Photocopy of Entry permit Card issued to	-do-	
(b) Photocopy of Entry permit Card issued to	-do-	W-43.		
		(a) Photocopy of Identity Card issued to	N. Manikantan	

(b) Photocopy of Entry permit Card issued to	-do-	W-54.	Photocopy of Identity Card issued by ESI Corporation to S. Saseendran.
W-44.			
(a) Photocopy of Identity Card issued to	T. Lalun	W-55.	Photocopy of letter dated 13-10-1981 issued by Accounts Pay Roll, Madras to Kannur Division of BPCL.
(b) Photocopy of Entry permit Card issued to	-do-	W-56.	Photocopy of letter dated 24-4-1979 issued by Accounts Pay Roll, Madras to Kannur Division.
W-45.			
(a) Photocopy of Identity Card issued to	V. Arun Kumar	W-57.	Photocopy of order of Regional Provident Fund Commissioner dated 6-12-2005.
(b) Photocopy of Entry permit Card issued to	-do-	W-58.	Photocopy of Identity Card issued by ESI Corporation to Unnikrishnan.
W-46.			
(a) Photocopy of Identity Card issued to	S. Santhosh	W-59.	Photocopy of Identity Card issued by ESI Corporation to Manoj Kumar P. A.
(b) Photocopy of Entry permit Card issued to	-do-	W-60.	Photocopy of Identity Card issued by ESI Corporation to T. P. Job.
W-47.			
(a) Photocopy of Identity Card issued to	S. Suresh Kumar	W-61.	Photocopy of Identity Card issued by ESI Corporation to Anoop T.B.
(b) Photocopy of Entry permit Card issued to	-do-	W-62.	Photocopy of Identity Card issued by ESI Corporation to C.K. Chandran.
W-48.			
Photocopy of consolidated statement of Casual Wages Payment for February 2001 pertaining to Shri. E. Saseendran, S. Sathesnan, L. Preman & K. Janardhanan.		W-63.	Photocopy of Identity Card issued by ESI Corporation to M. Ajit Kumar
W-49.			
Photocopy of Voucher dated 31-12-1991 issued by management to S. Sasindran (Sl. No. 84).		W-64.	
W-50.			
Photocopy of Voucher dated 31-12-1991 issued by management to S. Sathesnan (Sl. No. 88).		(a) Photocopy of Identity Card issued to	C.A. Paulose
W-51.		(b) Photocopy of Identity Card issued by ESI Corporation to	-do-
Photocopy of Voucher dated 30-12-1991 issued by management to L. Preman (Sl. No. 86).		(c) Photocopy of NSSN Form Acknowledgment Slip dated 3-7-2004 issued to	-do-
W-52.		(d) Photocopy of Wage Slip issued to dated 5-3-2007	-do-
Photocopy of Voucher dated 30-12-1991 issued by management to K. Janardhanan (Sl. No. 85).			
W-53.			
Photocopy of Voucher dated 10-6-1982, 24-12-1981, 13-4-1979, 20-12-1980, 24-3-1980, 22-12-1980 (6 Nos.) issued by management to N. Sasindran (Sl. No. 89).			

W-65.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to B. Raveendran Pallai
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of NSSN Form Acknowledgment Slip dated 3-7-2004 issued to -do-
- (d) Photocopy of Wages Slip dated 5-3-2007 issued to -do-

W-66.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to R. Muraleedharan
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of NSSN Form Acknowledgment Slip dated 3-7-2004 issued to -do-
- (d) Photocopy of Wages Slip dated 5-3-2007 issued to -do-
- (e) Photocopy of Annual statement of account for the year 2005-06 issued to -do-

W-67.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Sudhakaran Pillai
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of NSSN Form Acknowledgment Slip dated 3-7-2004 issued to -do-
- (d) Photocopy of Wages Slip dated 5-3-2007 issued to -do-

W-68.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Surendran Nair
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-

- (c) Photocopy of Wages Slip dated 5-3-2007 issued to -do-

W-69.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Jayaprased
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of Wages Slip issued to -do-

W-70.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Viswa Kumar
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of Wages Slip dated 5-3-2007 issued to -do-

W-71.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Karthikeyan
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of NSSN Form Acknowledgment Slip dated 24-7-2004 issued to -do-

W-72.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to G. Raju
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-
- (c) Photocopy of Wages Slip dated 5-3-2007 issued to -do-

W-73.

- (a) Photocopy of Identity Card issued by Raven-Air-Securities to Rajagopalan Pillai
- (b) Photocopy of Identity Card issued by ESI Corporation to -do-

New Delhi, the 2nd July, 2009

S.O. 2030.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 183/2000) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Noamundi Iron Ore Mines and their workman, which was received by the Central Government on 30-6-2009.

[No. L-26012/6/2000-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of I.D. Act.

Reference No. 183 of 2000

Parties :

Employers in relation to the management of Noamundi Iron Ore Mines of M/s. TISCO Ltd.

AND

Their Workman

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shir D. K. Verma, Advocate

For the Workman : Shir D. Mukherjee, Advocate

State : Jharkhand Industry : Ore Mine

Dated, the 27th May, 2009

AWARD

By Order No. L-26012/6/2000-IR(M) dated 23-6-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management in denial of employment to the dependent son of Shri G. D. Mahapatra, ex-employee of Noamundi Iron Mine of M/s. TISCO is justified ? If not, to what relief Shri R. K. Mahapatra S/o Shri G. D. Mahapatra is entitled ?"

2. The workman has filed written statement stating that he had been working as permanent workman at Noamundi Iron Ore Mines of TISCO since 8-5-1956 and retired from service after completing 40 years of service w.e.f. 1-6-99. The concerned workman had registered his dependent's name in the Companies' Register for

employment as per settlement/agreement and prevalent practice, and as per that settlement as employee who retired from service after putting requisite period of service is entitled for employment. As regards to employment of employees' dependents following are the settlement/agreement :

- (a) The memorandum of agreement of National Joint Committee for the Steel Industry held at New Delhi on 25-5-1983 item No. 7-16 employment to be provided to the dependents' sons who are permanently disable and to the dependent son of retiring employees would be employed.
- (b) National Joint Committee for the Steel Industry memorandum of agreement item No. 7-14 employment to the dependent son would be provided to workers who is permanently disabled, accident and retiring workers.
- (c) Mines division agreement of TISCO Ltd. and Indian National Mines Workers Federation alongwith his affiliated Unions held on 2-1-1984 item No. 29, employment would be provided to the dependent of the employee who ceased to be in employment due to permanent disablement of those who died in service. Preference in employment will be given to the dependent of the retiring employees on a mutually agreed procedure which should be decided within three months of signing of the agreement.
- (d) The wage revision of Memorandum of Agreement between the TISCO Ltd. and Indian National Mines Workers Federation and its affiliated union held at Jamshedpur on 11-9-1989 item No. 35 employment would be provided to the dependent of the employee who cease to be in employment due to permanent total disablement or those who die while on duty. Preference in employment will be given to the dependent of the retiring employees on a mutually agreed procedure.
- (e) The wage revision of memorandum of agreement on 11-8-95 item No. 50 at Jamshedpur onwards as regards to employment similar terms of agreement have been provided employments to the dependent son of workers.

It is evident from the aforesaid agreement/settlement of National Committee and Mines Division of TISCO Ltd. to the fact and effect of the appointment of dependent's employee.

Though the management had assured to provide employment but unfortunately the management refused to settle the issue amicably, so the conciliation proceeding ended in failure. The Government of India, Ministry of Labour, referred the dispute for adjudication to this Hon'ble Tribunal. The action of the management in denial of

employment to the dependent son of G. D. Mahapatra was illegal, arbitrary, unjustified and against the principle of natural justice. It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the workman by directing the management to provide employment to the dependent son of G. D. Mahapatra with retrospective effect with all arrear of wages and consequential benefits.

3. The written statement has been filed on behalf of the management stating that the reference is not legally maintainable. It has been submitted that G. D. Mahapatra submitted his demand before the A.L.C. (C), Chabasa by his letter dated 5-7-99 for employment of his son, R. K. Mahapatra in the employment of Noamundi Iron Ore Mines in his place. After several discussions with the management the conciliation proceeding ended in failure and thereafter the present reference has been made by the appropriate Government to this Hon'ble Tribunal for adjudication. It has been stated that the Noamundi Mazdoor Union was never a party before the Conciliation Officer and in the order of reference the Under Secretary has put the above name of the Union without proper application of mind behind the back of the management and, as such, the reference is liable to be summarily rejected. It has been stated that the concerned workman, G. D. Mahapatra ceased to be workman of the company after his superannuation and, as such, he had no right to raise any industrial dispute even U/s. 2A of the I.D. Act. It has been stated that G. D. Mahapatra was a Senior Mackoperator at the time of his superannuation and he applied for employment of his son, Ranjit Kumar Mahapatra after his superannuation. The management could offer him the employment as a time-rated worker which was not acceptable to him and he wanted a job commensurate with the qualification. The concerned workman approached the Managing Director for considering employment of his son on the post of some officer considering his educational qualification. Accordingly, he was called for an interview on 14-4-99 to face the Selection Committee but he could not give his answers to the question put by the Selection Committee. But he was not found suitable for the post of Personnel Officer (Trainee) and accordingly he was informed by letter dated 20-4-99. The management by letter dated 3-4-2000 informed the concerned workman, G. D. Mahapatra that there was no scope for providing employment to his son on the post of Personnel Officer (Trainee) in view of his failure in the interview on 14-4-99 before the selection committee. He was also given option to accept the offer of employment of Mazdoor on time-rated job and was advised to send his son before the Chief Medical Officer on 5-4-2000 for his pre-employment medical examination. It was clearly stipulated that if his son would not appear before the Chief Medical Officer, Noamundi Mines on the date and time fixed for the same purpose, it would be considered that he was not interested for his employment. Since Ranjit Kumar Mahapatra, son of the concerned

workman, G. D. Mahapatra did not appear before the Chief Medical Officer (M) Noamundi for his pre-employment medical examination, the issue for his employment in the employment of Noamundi Iron Ore Mines was finally closed. It has been submitted that the demand of the concerned workman for employment of his son is without any merit and is liable to be summarily rejected and he cannot get any relief in this matter.

4. Both parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management has produced MW-1 - N. J. Akthayose who has proved Exts. M-1 and M-2.

The concerned workman has produced Ranjit Kumar Mahapatra as WW-1.

6. The main argument advanced on behalf of the concerned workman that the dependent son of the concerned workman, G. D. Mahapatra had applied for the post of Personnel Officer (Trainee). He has got educational qualification in Degree of Master in Industrial Relation and Personnel Management. But he has not been given employment after retirement of his father, G. D. Mahapatra, who had been working as permanent workman since long to the satisfaction of the management and he was retired after completion of 40 years of service. As per management's policy decision also employee's dependent is entitled for employment, in the event of completion of 40 years of service. But the management has not provided employment to him. It has also been stated by Ranjit Kumar Mahapatra (WW-1) in cross-examination that even the management has not offered employment for the post of General Mazdoor. He has admitted that the post of Personnel Officer is an Executive post.

In this respect the counsel of the management argued that he was given employment for the post of General Mazdoor and he was directed to appear before Medical Board for pre-employment medical examination, but he refused to join as general mazdoor. In this respect MW-1 has admitted that as per the agreement the dependents of employees will be given preference in the matter of employment. It shows that the concerned dependent of G. D. Mahapatra is entitled for employment as per management's evidence. The management's witness stated that the son of G. D. Mahapatra was given offer of employment as general mazdoor and was directed to appear before the Medical Board but he did not appear before Medical Board. The management has proved Ext. M-1 for offering employment to Ranjit Kumar Mahapatra for the post of General Mazdoor and as Ext. M-2 he did not appear before Medical Board. After retirement, G. D. Mahapatra applied for his son for the post of Personnel Officer (Trainee). As per Ext. 'X' for identification shows that he was not found fit by the Interview Board. WW-1 admitted in cross-examination that the post of Personnel Officer is

an Executive post. As per document filed by the management it shows that as per Agreement Clause 50 of Chapter XXXV-Employment would be provided to one dependent of the employee who ceases to be in employment due to permanent total disablement or those who die while on duty. Preference in employment will be given to the dependent of the retiring employees on a mutually agreed procedure. It has also been mentioned regarding priorities for Employment in Memorandum of Agreement between TISCO and Union Minute dated 11-8-95 which mentions that a near relation of an employee who has completed 25 years of continuous service if no other relation of that employee is in employment. The term "relation" for this purpose is defined as husband, wife or wives, widow, son, daughter, brother, sister and son-in-law, in order of priority. As per Agreement by Steel Industry dated 25-5-83 Para 7.16 regarding Employment, it has been mentioned that employment would be provided to one dependant of workers disabled permanently and those who meet death. One dependent of the retiring employee would be provided employment, but in case of TISCO the same would be subject to their Certified Standing Orders. As per note-sheet of A.L.C. Ext. W-2 shows that the management offered to give employment to Ranjit Mahapatra, dependent son of G. Mahapatra, as General Mazdoor.

7. Learned counsel for the workman referred AIR 1940 Patna 683 in which Hon'ble Patna High Court laid down that when witness is not cross-examined his evidence must be accepted. He has also referred 2005 (106) FLR 1067 in which Constitution Bench held that the pleadings are no substitute for proof. The learned counsel for the workman also referred 2002(2) LLN 871 in which Hon'ble Supreme Court laid down that Appellant, an area sales executive, on termination of his service, raised an industrial dispute-State Government refused to refer the dispute holding, on the basis of his designation, that he was not covered by the definition of "workman" as defined in industrial Disputes Act-His writ petition to High Court against the said order of refusal of reference was dismissed- Hence the instant appeal to Supreme Court-Held, the decision to refuse reference of dispute to industrial adjudication based on designation of the post held by employee is erroneous-Determination of the question depends on types of discharged by the employees and not merely on the designation of post held by him. In the present case admittedly the post of Personnel Officer is an executive, so it shows that the concerned petitioner (WW-1) himself admitted in his evidence that the post of Personnel Officer is an executive. Learned counsel of the workman referred 1977 Lab. I.C. 1088 in which Hon'ble Allahabad High Court Industrial Disputes Act—Person employed for doing work of technical nature—Doctor employed by an industry for rendering medical aid to its employees is a "workman". The Hon'ble court also held that if the wages of person employed for doing supervisory work exceed Rs. 500/- per

month, he will not be considered to be a workman. He also referred decision of Hon'ble Supreme Court in Civil Appeals Nos. 44, 45, 336 and 337 of 1957 decided on 15-10-1957 that U/s. 2 (s) of I.D. Act person holding managing capacity also doing clerical work is "workman" which has also been reported in 1958(2)-LLJ 260 = AIR 1958 SC 130.

A settlement/agreement which has been made with the union for offering employment of retiring employee is binding in both the parties. The management had offered employment to the dependent son of G.D. Mahapatra, concerned workman for the post of General Mazdoor and the management has stated that he refused to join. But the said letter of Offer has not been proved by the management by documentary evidence. So, in the circumstances Ranjit Kumar Mahapatra, dependent son of G.D. Mahapatra is entitled for employment in the post of General Mazdoor.

8. Accordingly, I render the following award—

The action of the management in denial of employment to the dependent son of Shri G.D. Mahapatra, ex-employee of Noamundi Iron Mine of M/s. TISCO is not justified. Hence, the dependent son of G.D. Mahapatra is entitled for employment in the post of General Mazdoor. The management is directed to implement the award within 30 days from the date of award.

H. M. SINGH, Presiding Officer.

नई दिल्ली, 2 जुलाई, 2009

सं. अ. 2031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. इन्स्टीट्यूट के प्रबंधन के संबंध निचोबकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय सं. 2, मुम्बई के पंचाट (संदर्भ संख्या सीबीआईटी-2/129/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-30011/46/2001-आई.आर. (एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009

S.O. 2031.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/129/2001) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC Ltd. and their workman, which was received by the Central Government on 30-6-2009.

[No. L-30011/46/2001-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-NO. 2, MUMBAI****Present : A. A. LAD, Presiding Officer****Reference No. CGIT-2/129 of 2001****Employers in Relation to the Management of
Oil & Natural Gas Corpn. Ltd.****THE EXECUTIVE DIRECTOR (MRBC),
O&NGCLtd.,****Vasudhara Bhavan, Bandra (East),
Mumbai-400 051.****1st Party****V/s.****Their Workman****Shri Devendra Sharma,
Urmila Bhavan, Plot No. B/354-355,
Sector 20, CBD Bellapur,
Navi Mumbai-400 0614.****2nd Party****APPEARANCES****For the Employer : Mr. Gobindram D. Talreja,
Representative.****For the Workman : Mr. H.T. Ameta, Advocate.****Date of reserving the Award : 14-01-2009.****Date of passing the Award : 28-4-2009.****AWARD**

The Government of India, Ministry of Labour by its Order No. L-30011/146/2001-IR (M) dated 13th November, 2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of ONGC Ltd., Mumbai, in terminating the services of Mr. Devendra Sharma, w.e.f. 1-5-1999 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. To support the subject-matter referred in the reference, second party filed Claim Statement at Exhibit 5 making out the case that, he joined 1st Party employer in the month of March, 1966 as a "High Skilled Technician 'Grade' " I and served for about 33 years continuously with clean and unblemished record.

3. He further states that, in the year 1998 1st Party issued a circular to its workers asking them to consider the Voluntary Retirement Scheme and invited employees to opt it. Accordingly 2nd Party submitted his option by letter dated 1-1-1999 requesting 1st Party to permit him to opt for Voluntary Retirement Scheme to take effect from 31-3-1999.

He states that, however, during the notice period 1st Party did not make any enquiry in respect of his reason for seeking VRS and decided to sanction. It is stated that, even 1st Party did not conveyed any decision. It is stated that, however, in the meanwhile due to changed circumstances at his home, the concerned workman informed the 1st Party that, he is not interested in VRS for which he applied by mentioning the above facts and request to withdraw it. Said request was sent by him by letter dated 22-3-1999. It is stated by the 2nd Party that, by said he requested 1st Party to permit him to withdraw his VRS option by letter dated 22-3-1999. It is stated that, he was not informed, whether 1st Party is going to consider his VRS or his application dated 22-3-1999 of withdrawal of VRS prayed by him. He states that, he continued to work with 1st Party till end of April, 1999 and to his surprise 1st Party informed him that, his VRS was accepted and informed that, he will be voluntarily retired with effect from 30-4-1999.

4. According to 2nd Party, 1st Party cannot voluntarily retire him w.e.f. 30-4-1999 without giving decision on his application dated 22-3-1999 which he send withdrawal of his VRS. It is stated by the 2nd Party that, if at all 1st Party has decided to retire him it could not have permitted him to work beyond March, 1999 or till the end of April, 1999. So it is stated that, the decision taken by 1st party compelling 2nd Party to retire was not considered by the 1st Party properly and it reveals that, he was permitted to withdraw it and to treat him in the employment of the 1st Party till his retirement on attaining the age of superannuation. It is stated that, however, decision taken by the 1st Party surprisingly intimating 2nd Party to retire him w.e.f. 1-5-1999 is illegal. It is stated that, 1st Party cannot ask 2nd Party to retire as per its whims and ideas. It is stated that, 1st party cannot stop the 2nd Party concerned workmen in reporting on duty when he went to report as his application dated 22-3-1999 for withdrawal of VRS was pending. It is stated by the 2nd Party that, decision taken by the 1st Party in retiring 2nd Party w.e.f. 1-5-2001 be treated as termination and direct 1st Party to reinstate him with benefits of continuity of service and back wages.

5. This is disputed by the 1st Party by filing reply at Exhibit 6-A making out the case that, on the request of the 2nd Party he was retired. It is stated that, the 2nd Party is not a 'workman' within the meaning of Section 3(2) of the Industrial Disputes Act, 1947. At the time of his retirement, he was working with 1st Party as a Deputy Superintending Engineer (Civil) hence he is not a 'workman'. It is stated that, the provisions of the Industrial Disputes Act, 1947 cannot be made applicable to the 2nd Party since he is not a 'workman', when he was retired as Dy. Superintending Engineer (Civil) when retired and when he was performing supervisory, managerial and administrative duties. It is stated that, when he opt for VRS his salary was

is shocking and 1st Party cannot do it. Whereas case of the 1st Party is that, the 2nd Party is not a 'workman'. He is not entitled to protection under the provisions of the Industrial Disputes Act, 1947 and cannot come within the purview of the Industrial Disputes Act, 1947. According to 1st Party 2nd Party was working on the post of Deputy Superintending Engineer (Civil) when he opted for VRS and his basic pay and his designation does not permit him to attract the provisions of Industrial Disputes Act, 1947 which are strictly applicable to the employees of makers company.

9. To support that, Exhibit 20 placed reliance on his affidavit which he has filed at Exhibit 28 wherein he repeats the same story regarding his appointment as PERS employee and failure of Bureau to hire him until 7/1/1999. It is pertinent to note that, when the State specifically State that, said Party is not a treatment facility inmate at Exhibit 20, said Party does not deny any more; he does not bother to say about his status while in custody by GCSF parole probation, he is a treatment facility inmate in the community that there is nothing at Exhibit IV. Meanwhile, his submission for consideration of Exhibit 20 dated 6/22/99 was the best if said Party submitted to the FBI Department. He admits that, he submitted Ex. 20 while under parole supervision of PERS. Meanwhile, he did not contact the public hearing unit or employment unit of PERS to request rehire him in their employment. Meanwhile that, by letter dated 12/5/2003 he requested Management transition medical facilities over the department as shown on page 21, 23 and 24 of Exhibit 14. Even he admits that, his signature from all documents. He admits that, after having regarding about PERS from the staff, he applied to PERS as per his application copy of which is provided on page 25 of Exhibit 14. He admits that, he was served with the order of suspension of PERS date of 29-4-2004 as shown on page 29 of Exhibit 14. He admits that, as per discharge on page 35 of Exhibit 14 benefits were offered him. He admits that, he applied to retired position as shown on page 36 of Exhibit 14 and earlier he denied his evidence by filing claim working at PERS 22.

10. Against that, 1st Party examined its witness Mr. Shabazz de Bate by Direct Examination, Exhibit 24, in line of his examination, in which he repeats the story about the nature of work of the 2nd Party and his status and, again, by him, he claims that 2nd Party is not a 'worker' and is in the managerial, administrative and supervisory category. Besides 1st Party examined Shabazz de Bate by Cross Examination in line of his examination, stated, in Exhibit 25 who states about permission obtained by 2nd Party from the post of Shabazz de Bate (Civil) to the post of Superintendent Engineer (E-6). He also repeats the story of the 2nd Party's discussion with 1st Party's establishment. He also states that application made by 2nd Party for withdrawal of VRS

WISCONSIN

No

Yes

No

Values

5) What is the main problem related to? relief.

Attachment No. 1 :

Pr. 2nd Party informed that, initially he reported for VRS on 01-05-1999 but was not accepted for retirement. He was asked to report for VRS by 1st Party on 22-05-1999. It is his case that, nothing was informed by the 1st Party about his prayer of VRS. He also states that, decision taken by 1st Party compelling him to retire w.e.f. 1-5-1999.

16. When 2nd Party was working and retaining income need not be considered. However, if you consider the case made out by the 2nd Party that he opted for VRS and tried to withdraw it by application dated 22-3-1999 and story made out by 1st Party that, he did not pressed that application dated 22-3-1999 for withdrawal of VRS, we find that, the case made out by 1st Party is acceptable. In the evidence 2nd Party admitted that, he got benefits of VRS. He admits that, VRS was accepted by 1st Party and the dues were paid to him. Even after retirement he did not protest to the extent of the amount of VRS while accepting it. Even he states that, he applied for medical facility for himself and his family even after retirement. He does not whisper about the acceptance of VRS under protest and moreover he does not accept the said VRS under protest and even it is not his case also.

1312b: attached to the 1st and 2nd Party
 alleged that they were not taken by the Government to
 retinalize was the fact that he did not challenge it in any way.
 Even he contends that he did not make any objection while
 accepting the amounts viz-a-viz he states that he received

17. If consider all this coupled with the stand taken by the 1st Party and the story made out by the 2nd Party of accepting all benefits of it, in my considered view, 2nd Party now cannot challenge the action taken which he has accepted by accepting the benefits of VRS.

18. Besides he tries to make out the case that, the Management instead of considering his case for VRS 1st Party ought to have accepted his withdrawal application for VRS. However, he has not made out specific case in what circumstances he accepted VRS and in what circumstances he decided to withdraw it? He expected from the Management that, they should have applied its mind while accepting VRS when he had applied for withdrawal of it. However, if the decision of accepting the VRS is illegal but it is not proved by the 2nd Party which we have to accept is late. On the contrary claim of the 1st Party is that, application dated 22-3-1999 though it was send by him was collected by the 2nd Party personally and did not submit it to the General Manager though he was personally pursuing the said application by making entry of it in the inward/outward registers and taking specific remarks on it. Even on that point evidence is lead by the 1st Party of its witness. When that is the case of the 1st Party and when evidence is against him and when there is no rivary shown as to why the witnesses are depositions in favour of the Management and against him require to consider. In this scenario I am of the opinion that, here the evidence led by the 1st Party should be accepted on that point. Besides citations relied by 2nd Party published in 2000(3) LLN page 759 of Gujarat High Court in case of Manager, Air Control E. C. Ltd. Vs. Kanaiyalal G. Kunvaria and citation published in 2000 (2) LLN page 800 of Rajasthan High Court in the case of Rambag Palace Hotel Vs State of Rajasthan and anr. are not explaining as to why the same are relied by the 2nd Party.

19. If consider all this coupled with the case made by both, I am of the opinion that, 2nd Party has not made out any case to clam any relief from I st Party. So I answer these issues to that effect and passes the following order :

ORDER

Reference is rejected with
no order as to its costs.

Bombay,

A.A. LAD, Presiding Officer

28th April, 2009.

नई दिल्ली, 2 जुलाई, 2009

का. आ. 2032.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, पुणे के पंचाट (संदर्भ

संख्या 462/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-11011/12/2003-आईआर (एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009.

S.O. 2032.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 462/2003) of the Central Government Industrial Tribunal/Labour Court, Pune now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workmen, which was received by the Central Government on 30-6-2009.

[No. L-11011/12/2003-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE FIRST LABOUR COURT AT PUNE

REF. I D A No. 462/2003

BETWEEN

Airport Authority of India
National Airport Division, Lohagaon,
Pune Airport, Pune-411032 ... 1st Party
AND

Their workmen represented by
Pune Zilla Mazdoor Sangh,
185, Shamivar Peth, Pune-411030 ... II Party
Caused : Shri N. B. Yenurkar, Presiding Officer

Advocate: Shri R. Y. Joshi, Advocate for 1st party,
Shri A. Y. Shikarkhane, Advocate for II Party

AWARD

(17-12-2008)

This reference is made to this Court by Government of India /Bharat Sarkar, Ministry of Labour/ Shram Mantralaya, New Delhi under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of ID Act, 1947 for adjudication of dispute between above parties over the demand mentioned in the schedule.

SCHEDULE

"Whether the demand of the union to declare that the arrangement in which the 14 workmen (as per annexure) are deployed by the Airport Authority of India, Lohagaon, Pune since 1989 onwards is sham and bogus and the concerned workmen who have worked continuously for the past 10 years in the Estt. of Airport Authority of India, Pune should not

be terminated and their services should be regularised by the AA1, Pune is legal and justified? If yes, to what relief the concerned workmen are entitled and from which date?"

2. Second party appeared and filed its S.C. at Ext. 5. Case of second party in brief is that first party owns and maintains all the Airports in India including the work at Pune. It provides various services at the Air Ports. For the said purpose, it employs direct and indirect employees. The 14 employees mentioned in Annexure A have been employed at Pune Air Port for more than 10 years through various contractors by the first party. Though the 1st party changed the contractors from time to time it did not affect the service conditions of the employees. Services of the employees were not terminated. Each time one contract ended and another commenced. Thus the contractors were the mere name lenders and the paper arrangement was made by the first party to defeat the claim of permanency and the direct employee status of these employees. The first party directly employs many employees at Pune and other places and their service conditions are more better than that of these employees.

3. Second party has also submitted that the appropriate Government by notification dt. 9-12-1976 issued u/s 10 of the Contract Labour (Regulation and Abolition) Act 1970 prohibited the employment of contract labour in the employment of sweeping, cleaning, dusting and security in the establishments of the first party. In spite of the said prohibition the first party has continued to engage the employees named in Annexure-A at Sr. Nos. 1 to 8 as sweepers and at Sr. Nos. 9 to 14 as Security Guards. These employees are doing perennial work all round the year and there is sufficient work for all of them. They are cleaning the Air Port building and its utilities and also looking after the watch and ward duties.

4. Second party has also stated that employee named at Sr.No. 1 of Annexure-A Smt. Kesarbai Waghmare has joined the employment of the first party in 1989 and so have the other sweepers as shown in Annexure-A. Similarly, the employee at Sr. No. 9 Shri Dhananjay Gholap has joined the employment in 1990 and so have the other as shown in the Annexure-A. That though these employees were initially employed through the contractors and continued to be employed through different contractors, contracts are sham and bogus as the employment of such contract labour was prohibited by notification way back in 1976. These employees are working under the control and supervision of the direct employees of the first party. It is further submitted by the second party that the first party employs three permanent employees as sweepers and they supervise the work of these sweepers employed through the contractor. They are working in two shifts. Similarly, the first party employed three permanent employees as Security Guards. All these six Security Guards are working along with permanent employees in three shifts. The duty

of these six security guards was to carry out security duty at the arrival gate, departure gate, main gate, cargo gate, visitor gate and to make entries and to close the gates as per schedule. Even after the induction of Central Industrial Security Force from 21-7-2002 they are performing their duties as the CISF is entrusted with duty of security of the main gate and checking passengers.

5. These employees have joined the second party union on or about March 1996. The union raised a demand for the regularisation for services of these employees on or about 29-3-1996. The demand was admitted in conciliation on 4-11-1997. That on 21-7-1998 on the assurance given by the first party the conciliation officer closed the conciliation proceeding till 31-12-1998. That however, the first party did not regularise their services and thus the union again approached the conciliation officer to restart the conciliation proceeding, which he did. In the mean while the first party by its letter dt. 20-5-1999 informed that the employees will not be retransferred until final decision is taken. That however, on 21-7-2002 the Central Industrial Security Force has taken over the security duties at the Air Port as also at other Airports. Therefore, the first party communicated that the services of these 14 employees would be terminated from 31-3-2003. Thus the present union and the concerned employees approached the Hon'ble High Court by way of Writ Petition to protect their services and the Hon'ble High Court ordered the status-quo. Thereafter the present reference has been made by the Appropriate Government. Thus all the employees involved in the present reference are at present in employment at Pune Air Port continuously since their first date of employment. The permanent employees employed as sweepers and Security Guards are being given daily over time of two hours as there is sufficient work. The work is still available all round the year and thus there is no reason to terminate their services. Proposed termination is by way of victimisation, in colourable exercise of employer's right and for patently false reasons. It has further submitted that its demand for regularisation of employees is justified. That the second party has claimed for direction to regularise the 14 employees in its employment as direct permanent employees and to pay them wages and allowances on par with its permanent employees from 29-3-1996 i.e. from the date of their demand.

6. The first party has filed its written statement at Ext.14 and resisted the claim of second party. The first party has submitted that it is a statutory corporation formed by and under the authority of the Union of India. It owns various Airports located in the country and operates them. However, it does not own the Airport at Pune. It merely operates the civil enclave in the Airport owned by the Indian Airforce. It has denied that the said 14 workmen are employed by the first party for more than 10 years. It has submitted that it merely runs the Airport. Specialised services are obtained by the first party through different

contractors. Thus it used to award contracts relating to sweeping, cleaning, maintenance and security to various contractors by following necessary guidelines. Various contractors have worked with the first party from time to time. It has submitted that these 14 employees listed in Annexure-A might have worked with different contractors. When a new contract is awarded to a new party, the same new party normally execute the said contract with the help of the existing workmen because continuity is ensured and the concerned workmen have knowledge with regard to the work. It has denied that the employees were continued by the first party inspite of the contract being changed from time to time. It as denied that it wanted to defeat any claim of permanency of the said employees. It has its own set of employees for carrying out the work. Their terms and conditions of services are different from the aforementioned 14 workmen because the nature of work performed by these employees is also different.

7. First party has also submitted that the categories in which contract labour was prohibited by the Central Government are entirely different category than those for which the workmen at Sr. No. 1 to 8 are employed. All the employees employed through the contractors have been extended the statutory benefits. It is denied by first party that the said contracts are bogus or sham. It is also denied that the employees engaged through contractors are working under the control and supervision of the first party. It is the contractor who has recruited the said workmen, who allocates them the work, supervises their work and paid them wages in addition to extending all other statutory benefits. First party has nothing to do with the terms and conditions of service of the said 14 employees. It is also denied that the work of those sweepers is supervised by three permanent sweepers employees.

8. The first party has submitted that on account of changed scenario world over after the incident of World Trade Center in the U.S.A. it was decided at the highest level that the securities of the Airports should be strengthened and accordingly the services of Central Industrial Security Force were availed in place of local police force or security guards. Thus, with effect from 21-7-2002 CISF has replaced the security guards and other work force at Pune Airport. On account of the same, the workmen at Sr. No. 9 to 14 of the Annexure have become surplus. It has denied that said workmen were engaged in violation of any notification issued by Central Government. It has also denied that the said employees are carrying out duties alongwith permanent workmen. It has submitted that there no vacant post in which it can absorb the said 14 employees. These 14 employees were in fact continued on account of the status quo from the Hon'ble High Court. It has denied that proposed termination would be by way of victimisation, in colourable exercise of employer's right or for purely false reasons. It has submitted that the demand for regularisation of the said employees is misplaced. They

can not be absorbed as direct employees of the first party and there is no question whatsoever of extending them the same benefits and allowances. For all these reasons it has urged to reject the demand of second party as regards these 14 workmen.

9. In view of these pleadings, my Ld. Predecessor has framed the following issues at Exh. 25. I record my findings on them and the reasons therefor are as under:-

ISSUES

FINDINGS

1. Whether the demand of the union to declare the arrangement in which the 14 workmen (as per Annexure) are deployed by the Airport Authority of India, Lohangaon, Pune since 1989 onwards is sham and bogus and the concerned workmen who have worked continuously for the past 10 years in the establishment of Airport Authority of India, Pune should not be terminated and their services should be regularised by the AAI, Pune is legal and justified?
Negative
2. If yes, to what relief the concerned workmen are entitled and from which date?
Not entitled.
3. What order?
As per final order.

REASONS

10. In support of its case the second party examined the 12 workmen amongst 14 named in Annexure-A examined to the influence. It also examined Shri Sanjay Nilkant Gafay, the Secretary of second party union. The first party also examined its witness Shri S. Suryanarayana, Assistant Manager (Personnel & Administration).

11. ISSUE NO. 1: In this case, it is the undisputed fact that the employees at Sr. No. 1 to 8 viz. Keshubhai Waghmare, Akshai Parande, Chandrabai Khairnar, Savita Kavale, Vinod Walekar, Vinod Sahas, Sushil Bhatkar, Shivali Mahurane were engaged at the Air Port at Pune as Sweepers through contractor. It is also undisputed fact that the employees at Sr. No. 9 to 14 mentioned in Annexure-A viz. Dhananjay Gholap, Mohanram Patil, Shripad Wadga, Vishwan Zol, Malappa Rajaram, and Rajaram, were engaged at the Air Port at Pune through contractors as a Security Guards. It is also admitted fact that the work of cleaning of Air Port was given to different contractors

for a specific period and the employees at Sr. No. 1 to 8 worked as a Sweeper at the said Air Port through different contractors from time to time. Similarly, it is also the admitted fact that the employees named at Sr. No. 9 to 14 were engaged as security guards through contractor from time to time. The period for which they alleged to have worked under different contractors is detailed as under :

Period	Name of the Contractor
1. 1-01-1989—30-11-1990	Goodwill Conservancy Services
2. 1-12-1990—31-01-1997	Sumit Enterprises
3. 1-02-1997—30-09-1997	M/s. Darshan Enterprises
4. 1-10-1997—15-01-1998	Rudra Group.
5. 16-1-1998—01-12-1998	No contractor
6. 1-12-1998—31-05-2003	Sumit Enterprises
7. 1-06-2003—31-12-2004	M/s. Promprt Industrial Services

12. That however, it is the contention of second party that all these employees are working under the control and supervision of the direct employees of the first party. The work done by these employees is of perennial in nature. According to the second party, all these employees are in fact the employees of first party and the contracts are sham and bogus, the contractors are the name lenders and the paper arrangement just to defeat the claim of permanency and direct employee status of these employees. It is also the contention of second party that contract labour in sweeping, cleaning and dusting and also in security was prohibited by notification way back in 1976. On the other hand, the first party has denied that the alleged work through the contractor has been prohibited by notification as alleged. That however, except the bare contention and pleadings in statement of claim there is no averments of any of the employees or the averment of the secretary of second party union examined by the second party about prohibition of such work by any government notification. No such notification is filed on record. Moreover, the witness of first party Shri S. Suryanarayan Assistant Manager (Personnel and Administration) has deposed that the work of sweeping and cleaning was not prohibited by any government notification. It is also averred by him that the work which was prohibited was not entrusted to any contractor. That however, there is also no suggestion in cross examination of this witness from the second party about the denial of that fact. In view of these facts, I have no hesitation to hold that the second party has failed to prove that the work of sweeping, cleaning and dusting for which the employees at Sr. No. 1 to 8 were engaged through contractors and the work of security for which employees at Sr. No. 9 to 14 were engaged through contractor at the said Air Port was prohibited by a government notification and thereby failed to prove that the said contract labour

was in contravention of provisions of Contract Labour (R&A) Act, 1970. As such, I do not find any reason to disbelieve the evidence of first party that the work of sweepers for which the employees at Sr. No. 1 to 8 and also the services of security guards at Sr. No. 9 to 14 for which they were engaged through contractors was not prohibited by any notification under the provisions of the Contract Labour (R&A) Act, 1970. Thus the act of the first party in engaging the services of different contractors for the purpose is not contrary to the provisions of law.

13. The Ld. Advocate for the first party has argued that undisputedly employees named at Sr. No. 1 to 14 in the Annexure in reference have been engaged for the assigned work through different contractors. All these workmen in their cross examination including the secretary of the second party union in cross examination has admitted that the wages were being paid to all those workers by the contractors. It is argued by Ld. Advocate for the first party that since these workers were available through the contractors they have engaged their services even through the contractor was changed considering their experience and availability. That simply because they worked at the establishment of first party for a long period under different contractors does not mean that they are the employees of the first party or they have achieved the status of employees of the first party. It is the contention of first party that their services cannot be regularised for non availability of the sanctioned posts of the nature of their work for the cadre. Ld. Advocate for the first party argued that appointment on regularisation of these workers would amount to back door entry, which is not permissible under law. He relied on authority of the Apex Court in Umadevi's case. On the other hand, Ld. Advocate for the second party relied on the authority of Apex Court in case of G.M. ONGC, Shilehar Vs. ONGC Contractual Workers Union, 2008-2-CLR-988 and argued that the services of said workers are required to be regularised in view of the long standing service with the first party. He has further submitted that Umadevi's case does not applicable and relevant in this case.

14. That however, the arguments of the Ld. Advocate for second party are not convincing and appears to be devoid of merits. In the authority cited in a case of G.M., ONGC, Shilehar Vs. ONGC Contractual Worker's Union, the basic issue involved was the status of the workman as to whether they were the employees of ONGC or the contractor and not the issue of regularisation of the employees. In that case, it was proved before the Tribunal that no contractor was appointed by the ONGC. The ONGC used to supervise and allot work to individual workers, it also took deliberate action and called for explanations from the workers, the workers were paid wages though they did not attend their duties and the wages were paid direct to the workers by the ONGC and the acquaintance roll was prepared by the management to make payment of the

workmen. On these proved facts, Hon'ble Apex Court has held that those workers were in fact the employees of the ONGC and in that context the ratio of the judgment in Umadevi's case held to be not applicable. That however, in our case the second party union and the said 14 workers have admitted the appointment of these workers by the contractors, they are engaged for the assigned work of the first party through the contractors. Admittedly, all these workers were being paid the wages by the contractors. Thus, there is no nexus as to relationship of the first party with these workers. Except the bare contention that the contractors were the name lenders and paper arrangement to defeat the claim of permanency and direct employee status there is no cogent convincing and reliable evidence on record to that effect. Hence the authority cited by the second party in G.M., ONGC case is not helpful to the second party in any way.

15. Ld. Advocate for the second party has also relied on the authority of Apex Court in a case of U.P.State Electricity Board Vs. Puran Chandra Pandey & Ors. 2008-11-CLR-147 and argued that the services of 14 employees are required to be regularised by the first party. That however, these arguments are not sustainable as the facts in the case cited and the facts in our case are different. In the case of U.P.State Electricity Board the concerned employees were the daily wages employees of Co-operative Electric Supply Society. That being the position the said society was taken over by the said electricity board and it was resolved that the daily wages employees of the society being taken over by the Board will start working in the Electricity Board in the same manner and position and that thereby those employees were absorbed in the service of Electricity Board and thereby those transferred employees are also entitled to get the benefit of the decision of the Electricity Board for regularisation of the employees working on daily wages. That however, facts in our case are quite different. The said 14 workers were engaged by the different contractors from time to time. The first party never treated them their employees in any way. It is well settled that the contractual worker is not entitled automatically to get regularised unless it is established that the engagement and employment of labours through the contractor is mere camouflage to deprive the benefits to workers. It is required to be proved by the contract labours on the basis of requisite material. That however, the second party has failed to prove it.

16. It is also worth to mention here that simply because the different contractors appointed by the first party from time to time have engaged the same 14 workers does not suggest that the contractors were the name lenders. The different contractors considering the experience and the availability of workers may give preference to engage the same workers. The principal employer sometimes to protect the interest of workers may also ask to the changed contractor to engage their services.

That however, for those reasons those workers do not get the status of the employees of the principal employer. In our case also these 14 workers are the workers of the contractors engaged by them from time to time by an independent contractor.

17. The second party has relied on the various correspondence made between the second party society and first party in respect of the demand of second party about regularisation of the contract labours. Those correspondence are at Exh. 42 to 51. From this correspondence, it appears that the first party tried their level best to examine the matter and to see as to whether the relief claimed by the second party about absorption of these contract labours in its services can be given. That however, it was found not feasible to accept the demand of absorption the contract labours to its regular services. It is the evidence of first party that it has no vacant post in which it can absorb the said 14 workers in its regular employment. The second party has failed to rebut this evidence to show that it has such number of posts and they are vacant wherein these 14 workers can be absorbed. The appointment of the employee in regular employment depends on the number of sanctioned posts and their availability of vacancy. In absence of such sanctioned posts, the employer can get the work done of emergency in nature by engaging the workers on contract labour. There is nothing illegality in doing so. The conservancy work i.e. Sweeping and cleaning and the work of security at the Air Port of first party was of emergent in nature for which the first party has engaged workers through contractors. In view of all these facts, it is evident that these 14 workers are the workers engaged by the contractors and not the employees appointed by the first party. They does not get status of employees of the first party and thereby there is no question of regularization of their services by the first party. Second party has failed to prove that the arrangement in which the said 14 workmen were deployed by the first party is sham and bogus.

18. Since the workers at Sr. No. 1 to 8 were engaged by the contractors, it is a choice of contractor to engage them or not. The first party cannot be directed to continue their services under the contract in its discretion. The first party can however in its discretion ask the contractor to utilise the services of those workers being expertise. So far as the workers i.e. security guards at Sr. No. 9 to 14, who were engaged through the contractors, it is the case of first party that at its higher level it has been decided to strengthen the security at the Air Port and accordingly w.e.f. 21-7-2002 services of Central Industrial Security Force have been availed in place of local police force or security guards. The secretary of the second party union in his cross-examination has also admitted that the security at the Air Port was handed over to the Central Industrial Security Force on 21-7-2002. As such, services of these security guards named at Sr. No. 9 to 14 through the contractor are

not required by the first party. Thus the action in terminating the contract with the contractors is justified. In view of these facts, I hold that the demand of the second party union about declaration that these 14 workers are deployed by the first party and that the said arrangement is sham and bogus is not legal and justified. I also hold that the demand of the second party that those workers should not be terminated and their services should be regularized by the first party is also not legal and justified. Hence I answer this Issue No. 1 in the negative.

19. ISSUE No. 2: In view of my aforesaid findings to the Issue No. 11 hold that the second party and the said 14 workers named in the Annexure are not entitled to any relief. Hence I answer this Issue No. 2 in the negative.

20. ISSUE No. 3: Under the facts and circumstances, I find it just and expedient that both the parties should bear their own costs. In view of my aforesaid findings, I proceed to pass following order:

ORDER

Reference stands rejected.

Parties to bear their own costs.

Pune

Dt. 17-12-2008 N. B. YENURKAR, Presiding Officer

नई दिल्ली, 2 जुलाई, 2009

का.आ. 2033.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इश्यूरेन्स कम्पनी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या-13/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-2009 को प्राप्त हुआ था।

[सं. एल-17012/47/2008-आईआर (एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 2nd July, 2009

S.O. 2033.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the employees in relation to the management of National Insurance Company and their workman, which was received by the Central Government on 30-06-2009.

[No. L-17012/47/2008-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 15th June, 2009

Present: A.N. Janardanan, Presiding Officer

Industrial Dispute No. 13/2009

[In the matter of dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of National Insurance Co. Ltd. and their workman]

BETWEEN

Smt. J. Kalyani : Petitioner/1 Party

AND

1. The Branch Manager : 1st Respondent

National Insurance Co. Ltd.
East Main Street
Pudukottai

2. The Regional Manager : 2nd Respondent

Regional Office
National Insurance Co. Ltd.
No. 684, Trichy Road
Coimbatore.

APPEARANCE

For the Petitioner : M/s. Muthu Pandian

For the Management : None

AWARD

The Central Government, Ministry of Labour vide its Order No. L-17012/47/2008-IR (M) dated 13-10-2008 has referred the following industrial dispute to this Tribunal for adjudication:

The schedule mentioned in that order is:

"Whether the action of the National Insurance Company, Pudukottai and Coimbatore in terminating the services without assigning any reason in respect of Smt. J. Kalyani, Part Time Sweeper w.e.f. September, 2006 is justified? To what the relief the workman is entitled?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 13/2009. Pursuant to notice under RPAD, the petitioner entered appearance. The respondents though were served with notice did not appear in spite of several adjournments given and therefore they are called absent and set ex parte.

3. The petitioner filed claim statement raising her contentions.

The case of the petitioner in her claim statement as well as by way of her sworn affidavit in lieu of chief examination is that she had been employed as sweep-cum-office assistant on and from 15-03-2000 in the respondent's office, having already put in nearly 6 years of service. By that time she was orally terminated on 01-09-2006. She studied upto SSLC. She has been paid weekly wage of Rs. 475. Her service was continuous. Yet she was not made permanent. She has already put in statutory period of service under L.D. Act, 1947. Her oral termination is illegal, unjust and void ab initio. She is entitled to reinstatement with back wages and all attendant benefits. She prays for reinstatement.

4. The respondent being absent and set ex parte, the case of the petitioner was sworn to in the affidavit filed by her in lieu of chief examination, which does not stand controverted is primarily substantiated. She has also relied on Ex: W1—Salary Voucher and Ex: W5—photograph purported to show her employment status in the office under the Respondent.

5. The points for determination are:

(a) Whether the termination of service of the petitioner as part time sweep-cum-office assistant, without assigning any reason is justified?

(b) To what relief the petitioner is entitled?

Point No. 1:

6. Now the Respondent after having been served with notice by RFAID, sent a telegram signifying their intention to enter appearance. In spite of several adjournments having been given eventually, they have been called absent and set ex parte. Needless to say that the evidence adduced by the petitioner through affidavit in lieu of chief examination does not stand shaken. It is to be noted that in proof of the claim of the petitioner regarding employment status, oral termination of her service, the too without assigning any reason, status of her having had continuous service of about 6 years as part time sweep-cum-office assistant etc. with an earning of weekly wage of Rs. 475 as the last of such wage prior to termination, though it is a normal contention raised that such uncontroverted affidavit allegation is apt to be substantiated as only self-serving evidence and is therefore seldom reliable in a civil case, here there is suggestion that Ex: W1 to Ex: W5 to such affidavit is swearing of them. The affidavit filed and is substantiated as evidence does stand though it is only by way of affidavit. It is the case of the petitioner that the termination is an oral and is violation of Section 25C of the L.D. Act 1947 and is illegal, void ab initio and a violation of the principle of natural justice. The petitioner therefore prays for reinstatement with back wages, continuity of service and all attendant benefits.

7. On appreciation of the facts and the evidence, I am of the view that the termination of service of the

petitioner orally without assigning any reason by the respondent is not legal and justified. I am fortified in holding so in the light of the decision of the Apex court in Divisional Manager, New India Assurance Co. Ltd. Vs. A. Subramanian (2009 4 LLJ 362).

Point No. 2:

The next point to be decided is to what relief the concerned workman is entitled?

8. The petitioner is therefore entitled to reinstatement into service forthwith with back wages, continuity of service and all attendant benefits and it is ordered accordingly. No order costs etc.

9. The decree is as ordered above.

(Signed by the P.A., transcribed and typed by him, corrected and countersigned by me in the presence of the digital signature, 2009)

A. N. JADAVPURAM, Presiding Officer

Witness—Examination:

For the Petitioner : Name:
For the Respondent : Name:

Examination of the
Chief Examination Table:

No.	Date	Description
Ex: W1	-	Salary voucher showing the employment of the Petitioner/1st party.
Ex: W2	-	Photograph showing the petitioner along with staff and agent on the eve of retirement of the Divisional Manager in the year 2000.
Ex: W3	-	Photograph showing the petitioner along with staff and agent in the year 2000.

Chief Examination Table:

No.	Date	Description
100		

नई दिल्ली, 2 जुलाई, 2009

आदेश: 2009—श्रीमती विद्या देवी, 1947/1947
का: 2009/वी.का. 17 के अन्तर्गत श्री. श्रीमती विद्या देवी
श्रीमती विद्या देवी के अन्तर्गत श्री. श्रीमती विद्या देवी के अन्तर्गत
श्री. श्रीमती विद्या देवी के अन्तर्गत श्री. श्रीमती विद्या देवी के अन्तर्गत
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श्री. श्रीमती विद्या देवी के अन्तर्गत श्री. श्रीमती विद्या देवी के अन्तर्गत

[सं. 2009/वी.का. 17—अंश (ए)]

आदेश: 2009, देवी विद्या

New Delhi, the 2nd July, 2009

NO. 16/2006—In pursuance of Section 77 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Barak Valley Cement Ltd. and their workman, which was received by the Central Government on 06-06-2009.

Ref. No. 16/2006

KAMAL BISHNU, Barak Valley

APPENDIX

OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri D.K. Deb Roy, M.A., LL.B.

Presiding Officer,

CGIT-cum-Labour Court, Guwahati

Ref. Case No. 16/2006

In the matter of an Industrial Dispute between:

The Management of Barak Valley Cement Ltd.; Karingpaj.

-Vs-

Their workman Sri Sudama Ram; Karingpaj.

APPEARANCES

For the Workman : Sri B. Malakar, Advocate.

**For the Management : Sri S. Dutta, Advocate.
Smt. M. Roy, Advocate.**

Date of Award 19-06-2009

AWARD

1. The present reference is arising out of the Government Notification No. Memo No. L-2001/2006-2007, dated 24-03-2006, in exercise of the powers conferred by clause (1) of Section (1) and sub-section (2) of the Industrial Disputes Act, 1947, to refer to arbitration the dispute described in the Schedule.

FACTS

2. The workman Sri Sudama Ram, of Barak Valley Cement Ltd. (BVCL), Karingpaj, Guwahati, Assam, was appointed as Helper vide appointment letter dated 18-3-01 and was paid his dues regularly. The father case of the Management is that the workman Sri Sudama Ram was found absent in office since 16-2-03 without any permission from the authority which amounts to serious misconduct. Thereafter, he was asked to join within 24 hours but he did not join. That on 2-3-03 he begged apology and assured the Management that he would not repeat this practice in future vide his letter dated 2-3-03. Thereafter, the workman was found absent from duties since 6-12-03 without any permission from the

4. Here, I have attempted to recall the case of the workman Sri Sudama Ram.

Sudama Ram (herein called the workman) has alleged that he was appointed as Helper (Mechanist) in the Barak Valley Cement Ltd. (BVCL) in the year 2001 vide letter dated 18-3-01 and was working sincerely. The father case of the workman is that he was terminated from service on 1-11-04 on the ground of his 'serious misconduct' in the Office since 12-9-04. It is further alleged that on 12-9-04 while he was working in the Plant some accident took place and sustained some injuries. He was immediately removed to Railway Hospital, Dibrugarh and the Management did not allow him to take rest. After his recovery he wanted to resume his duties which was denied by the Management rather he was asked to take rest for sometime. That in pursuance to the Management's order dated 25-10-04 he reported for duty on 26-10-04 but he was not allowed to join as he was asked to take further rest. That the Management vide letter No. BVCL/HR/2004/147 dated 1-11-04 informed that he voluntarily abandoned his service with effect from 1-11-04, which according to him was not correct. Thereafter, the workman again went to the Office along with medical fitness certificate to join his duties but he was not allowed to join on the ground that he abandoned his service. Thereafter, his sister Smt Rekha Ram submitted an application to the Manager on 2-3-05 requesting for reinstatement of her brother. The Manager in turn told her to discuss the matter with Mr. Mallick. But unfortunately Mr. Mallick did not take any step in this regard. Thereafter the workman filed a complaint against the BVCL to the Assistant Labour Commissioner (C), Silchar on 30-5-05. Accordingly conciliation proceeding took place through conciliator, which was settled up and ultimately the workman referred to the Government of India, Ministry of Labour and Employment, New Delhi. The workman's father stated that the action taken by the Management against to his absence and treating his service as voluntarily abandoned is unjust, collusive, arbitrary and totally illegal. The workman therefore, prays that the management be directed to reinstate him in his original post.

5. Barak Valley Cement Ltd. (herein called the Management) contested the proceeding by filing Written Statement refuting the allegations of the workman. According to Management, workman read up to Class-IX who joined in the BVCL in the year 2001 as Helper vide appointment letter dated 18-3-01 and he was paid his dues regularly. The father case of the Management is that the workman Sri Sudama Ram was found absent in office since 16-2-03 without any permission from the authority which amounts to serious misconduct. Thereafter, he was asked to join within 24 hours but he did not join. That on 2-3-03 he begged apology and assured the Management that he would not repeat this practice in future vide his letter dated 2-3-03. Thereafter, the workman was found absent from duties since 6-12-03 without any permission from the

authority and he was asked to join his duties and he joined on 11-12-03 assuring that he would not repeat the same practice in future. The further case of the Management is that the workman was a habitual absentee and while he was absenting from 12-9-04 without any permission from the authority he was asked to join his duties vide letter No. BVCL/P&A/4/114 dated 1-10-04 but he did not turn up though he received the letter on 3-10-04. Again he was served with a letter No. BVCL/P&A/4/143 dated 25-12-04 and was asked to give a reply as to why disciplinary action should not be taken against him, but he did not turn up. Accordingly another letter was sent to him vide No. BVCL/P&A/4/147 dated 1-11-04 asking him to join immediately by reproducing the earlier letter but he turned a deaf ear to that. According to the Management that the workman was a habitual absentee without any permission from the competent authority which presumes that he was not interested in the service and having given reasonable opportunities to him he was made voluntary abandonment from service on 1-11-04 and the charge against the employee as unauthorisedly absent since 12-9-04. In support of that case proceeding is submitted by the Management. The Management also states that they have submitted the attendance sheets in respect of the said workman for the month of September and October, 2004. As per Provision of Industrial Disputes Act as well as Standing Orders for Workmen and other employed persons under Management and for infraction of Provision of Clause-23, 24, 25 and 27 of the Standing Orders the workman was terminated from service. Reasonable opportunities and Natural Justice was done to the workman before taking punitive action. The Management, therefore, prayed before this Court that there is no merit in the case of the workman and the Reference brought by the workman may be dismissed.

6. The workman has examined himself as witness, on the other hand, the Management has examined 2 witnesses.

7. Heard both the sides at the Bar. The learned Counsel appearing for the workman has submitted inter alia that workman fell ill following an accident that took place in the Plant. There was no deliberate absenteeism on his part and the order of termination issued by the Management ex-facie appears to be illegal. This contention has been seriously controverted by the learned Counsel appearing for the Management, who on the other hand, has submitted that the workman was a habitual absentee though several notices were issued to him asking him to join but there was no reformation in his character. According to him, the workman has been rightly terminated by the Management as per Provision contained in Clause-23, 24, 25 and 27 of the Company's Standing order. Before entering into this controversy, I feel it convenient to discuss the evidence on record.

8. The workman in his evidence has said that he was appointed as Helper (Mechanical) under the

Management in the year 2001. His initial appointment was on probation for a period of six months and subsequently his service was regularized. An appointment letter was issued to him vide letter dated 18-3-01 (Ext. 1). That on 12-9-04 while he was on duty in the Plant some accident took place and he sustained some injuries and he was removed to Badarpur Railway Hospital. Thereafter, he came to office to resume his duties but he was not allowed to do so rather he was advised to take more rest. On 25-10-04 he received a letter from the Management and accordingly he submitted a letter dated 26-10-04 (Ext. 2) for joining in Service. All on a sudden, he received a letter dated 1-11-04 terminating his service vide Ext. 3. Thereafter, he submitted a reply vide his letter dated 2-11-04 along with medical fitness certificate (Ext. 5). Thereafter, his sister Smt. Rekha Ram submitted a representation dated 2-3-05 (Ext. 6) for reinstatement of her brother but no action was taken. The workman has further stated that on 30-5-05 he submitted a complaint before the Assistant Labour Commissioner (C), Cachar, Silchar against the Management. Ext. 7 is the complaint. Accordingly, conciliation proceeding took place and both the parties participated but the matter could not be settled up in conciliation proceeding and the Assistant Labour Commissioner (C) vide his letter dated 3-2-06 submitted failure report to the Government and hence, this reference case. Ext. 8 & 9 are the conciliation proceedings. This witness has been cross-examined by the Management. This witness has admitted that he has not submitted any document to show that his service was regularized. He has also admitted that he remained absent from duty from 16-2-03 unauthorisedly. He received a letter from the Management to join in service. He wrote a letter to the Management on 24-2-03 requesting to pardon him for his unauthorized absence. The Management suggested this witness that for his unauthorized absence from 2-12-03 he wrote a letter dated 6-12-03 to the Management begging apology. It is admitted that on 3-12-03 he received a warning letter from the Management not to remain absent even though he did not join. He has further admitted that he received a Telegram from the Management on 19-5-04 for his absence from 1-4-04 and he sought apology in writing on 25-9-04. It is also admitted by the workman that he received the charge-sheet issued on him on 1-10-04 for his absence from 12-9-04. He has also admitted that he received another charge sheet on 25-4-04 directing him to join immediately. On 1-11-04 he was terminated by the Management. The Management suggested this witness that for his unauthorized absence on several occasions the Management terminated him from service. The workman has admitted in cross-examination that his frequent absence from duty was pardoned by the Management and lastly his case was not considered and he was terminated from service.

9. Now let me discuss the evidence of MW.1. According to him, initially the workman was appointed on

probation of six months and during his probation period he was in the regular habit of absenting himself from duties. According to him he remained absent from duty unauthorisedly for four days in the month of September, 2007 and 7 days in the month of October, 2002 and thereafter he remained absent since 16-12-03 and the Management issued charge sheet for his unauthorized absence from 16-12-03 with a direction to join immediately. In response that the workman submitted a letter of apology dated 14-2-03 (Ext. A) to the Management. The Management then issued charge-sheet against the said workman on 6-12-03 for his unauthorized absence from 2-12-03 with a direction to join duty, Ext. C is the letter. The workman again begged apology vide his letter dated 6-12-03 (Ext. D). Thereafter, the Management issued warning letter dated 10-1-04 for his unauthorized absence for 13 days in the month of December, 2003, (Ext. E). Ext. E1 is the attendance sheet of the workman. Thereafter, the workman remained absent from duty since 1-4-04 and accordingly he was informed by a Telegram to join duty immediately (Ext. F). According to this witness the workman was a habitual absentee and he submitted several apology letters for pardoning him. According to him in the month of June, 2004 he remained absent for 2 days i.e. on 11 and 26 June. Again he remained absent for 13 days in the Month of July, 2004 i.e. 10-7-04 and from 20-7-04 to 31-7-04, (Ext. D). The Management again vide his letter dated 1-10-04 directed the workman to resume his and duties for his absenteeism from 12-9-04, (Ext. H) and he received the same on 3-10-04. The Management on 24-10-04 issued another charge-sheet with a direction to join duty immediately because he neither replied nor joined his duty despite receiving of their letter dated 1-10-04, (Ext. I). The Management was fed up with the conduct of the workman and Management presumed that the workman was not interested for the service and he might have joined somewhere else thus voluntarily abandoned his service in the Company on 1-11-04. He has referred Clause-23(I) and (VI) of the certified Standing orders of the Company, Ext. J is the Standing Order. According to the Management since inception the workman was found insincere and was in the regular habit of absenteeism and he never met an accident on 12-9-04 as alleged by him. He has admitted that, conciliation proceeding took place in the Office of the ALC, Cachar, Silchar, which culminated to a failure report. According to him as per Company's rules the workman is not legally entitled to any relief and his petition may be dismissed in limine. This witness has not been cross-examined by the workman.

10. Now let us consider the evidence of MW. 2, who said in his evidence that the workman was a habitual absentee in the Office. Different show cause notices were given to him and he submitted several letters of apology. This witness has corroborated the evidence of MW.1. He has been cross-examined by the workman. In the Cross-examination this witness has said, initially the workman

was appointed on 1-4-01 as Mechanical Helper on probation. Normally probation period is for six months. After the expiry of six months an employee may be regularized in his service subject to satisfactory performance. The performance of the workman was not satisfactory and his service was not regularized. According to him in the month of February, 2004 the workman sustained some eye injuries thereafter, he remained absent from duty till 31st March, 2004. On 1-4-04 he resumed his duties and thereafter he was again found absent. The workman suggested this witness that the workman did not abandon his service voluntarily.

11. I have carefully gone through the evidence adduced by the workman vis-a-vis evidence of the Management. Plethora of documents has been proved by the parties. I have considered these documents. The whole case of the Management is that since the beginning of his career on probation the workman was in habit of regular absenteeism though ample scope was given to him for his rectification but nothing had happened. His habit remains the same. From the evidence, it is seen that several notices were issued to the workman in different occasions for his long absenteeism. It is admitted that in some occasions the workman submitted letters of apology. The Management has proved Ext.G (in four sheets) to show the period of absence in respect of the workman Sudama Ram which are as follows :

In the month of January, 2004.....	5 days,
In the month of April, 2004.....	30 days,
In the month of May, 2004.....	31 days,
In the month of June, 2004.....	2 days,
In the month of July, 2004.....	13 days,
In the month of August, 2004.....	2 days,
In the month of September, 2004.....	22 days,
In the month of October, 2004.....	31 days.

Total136 days

It is thus, apparent that the workman remained absent for the period of 136 days in the year 2004.

In the year 2003, he remained absent from duties as follows :

In the month of January, 2003.....	6 days,
In the month of February, 2003.....	20 days,
In the month of March, 2003.....	3 days,
In the month of April, 2003.....	2 days,
In the month of May, 2003.....	2 days,
In the month of June, 2003.....	Nil,

In the Month of July, 2003.....1 days,
 In the Month of August, 2003.....6 days,
 In the Month of September, 2003.....4 days,
 In the Month of October, 2003.....26 days,
 In the Month of November, 2003.....8 days,
 In the Month of December, 2003.....13 days,

Total 91 days.

It is thus seen that the workman Sudama Ram remained absent from duties for 227 days in 2 years i.e. 2003 & 2004. The workman failed to justify his long absenteeism by cogent and convincing materials. From the conduct of the workman it is, thus, apparent that the workman was not interested for service and the Management rightly presumed that he had voluntarily abandoned his service and in the mean time he might have joined somewhere else. The presumption of the Management in this regard can not be ruled out.

12. Learned counsel for the Management during the course of argument has drawn my attention of Clause 23 (I) & 23 (VI) (misconduct) of Standing Orders of the Management (Ext. J).

"23. Misconduct.

i. In-subordination or instigation or disobedience thereof whether alone or in combination with another, of any lawful and reasonable order of a superior."

vi. Habitual absence without permission, or absence without permission for a period not exceeding

8 consecutive days or over staying the sanctioned leave for a period not exceeding eight consecutive days without sufficient grounds or proper or satisfactory explanation."

Reference may be made in Clause 24 (iii), 25 (b).

13. From the plain reading of Clause-23 (vi) it is seen that if an employee remains absent from duty without permission from the authority for not exceeding 8 consecutive days the action of the workman comes within the ambit of "Misconduct". Admittedly, initially appointment of the workman was on probation for six months. There is absolutely no evidence to show that his service was regularized by the Management. The evidence of the Management clearly shows that his service was not regularized after expiry of six months due to his bad performance, which is evident from the long absenteeism of the workman.

14. Having heard both sides and having considered the entirety of the facts and circumstances of the case and having considered the relevant provision of the standing orders of the Company, I am constrained to hold that the workman voluntarily abandoned his service and the action of the Management appears to be justified. I do not find any merit of the case of the workman and consequently stands dismissed.

15. With the observation indicated above, the Reference stands disposed of.

16. Send the Award to the Ministry immediately as per law.

D. K. DEB ROY, Presiding Officer